

EXHIBIT B

In The Matter Of:

Desheila C. Howlett v. City of Warren

Gregory Murray

January 29, 2018



Gregory Murray
January 29, 2018

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<p>IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION</p> <p>DESHEILA C. HOWLETT, Plaintiff, vs. Civil No. 17-11260 Hon. Terence G. Berg Mag. R. Steven Whalen CITY OF WARREN; COMMISSIONER JERE GREEN, acting in his individual capacity; LT. LAWRENCE GARDNER; SHAWN JOHNSON; DAWN MCLANE; ANWAR KHAN; DARRIN LABIN; WILLIAM ROSS; KEVIN BARNHILL; PAUL HOUTOS; SCOTT TAYLOR, Defendants.</p> <hr/> <p>The Deposition of GREGORY MURRAY, Taken at 333 West Fort Street, Suite 1500, Detroit, Michigan, Commencing at 10:17 a.m., Monday, January 29, 2018, Before Maureen Collier, CSR-7422.</p>	<p>1 ETHAN VINSON P26608 2 City of Warren, City Attorney's Office 3 1 City Square, Suite 400 4 Warren, Michigan 48093 5 (586) 574-4671 6 evinson@cityofwarren.org 7 Appearing on behalf of the Defendants. 8 9 MICHAEL J. SHARPE P37633 10 Law Office of Michael J. Sharpe 11 535 Griswold Street, Suite 1320 12 Detroit, Michigan 48226 13 (313) 961-3681 14 mjsharpe2003@yahoo.com 15 Appearing on behalf of Gregory Murray. 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 APPEARANCES 2 3 LEONARD MUNGO P43562 4 The Mungo Law Firm, P.L.C. 5 333 West Fort Street, Suite 1500 6 Detroit, Michigan 48226 7 (313) 963-0407 8 mungol16@msn.com 9 Appearing on behalf of the Plaintiff. 10 11 JAMES R. ACHO P62175 12 ELIZABETH RAE-O'DONNELL P41529 13 Cummings, McClorey, Davis & Acho, P.L.C. 14 17436 College Parkway 15 Livonia, Michigan 48152 16 (734) 261-2400 17 jacho@cmda-law.com 18 Appearing on behalf of the Defendants. 19 20 21 22 23 24 25</p>	<p>1 TABLE OF CONTENTS 2 3 WITNESS PAGE 4 GREGORY MURRAY 5 6 EXAMINATION BY MR. MUNGO: 17 7 8 EXHIBITS 9 10 EXHIBIT PAGE 11 (Exhibits attached to transcript.) 12 13 DEPOSITION EXHIBIT 1 6 14 (January 27, 2018 E-mail) 15 DEPOSITION EXHIBIT 2 6 16 (Discipline - Shawn Johnson) 17 DEPOSITION EXHIBIT 3 6 18 (Discipline - Barbara Beyer) 19 DEPOSITION EXHIBIT 4 6 20 (General Order No. 17-09) 21 DEPOSITION EXHIBIT 5 6 22 (Affidavit of Gregory A. Murray) 23 DEPOSITION EXHIBIT 6 6 24 (October 24, 2017 Letter RE: 25 Resignation Consideration)</p>

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1	DEPOSITION EXHIBIT 7	54	1	having first been duly sworn to testify to the truth,	
2	(Agreement and Order)		2	the whole truth and nothing but the truth, was	
3	DEPOSITION EXHIBIT 8	105	3	examined and testified as follows:	
4	(General Order No. 03-01)		4	MR. MUNGO: Let the record reflect that we	
5			5	are here today for a deposition that has been duly	
6			6	noticed for the case of DeSheila Howlett versus the	
7			7	City of Warren, Commissioner Jere Green, and several	
8			8	other defendants, Case Number 17-11260v, currently	
9			9	pending before Judge Berg, Terence Berg, Federal	
10			10	Court, Eastern District. And the deponent today is	
11			11	Mr. Gregory Murray, former diversity coordinator for	
12			12	the City of Warren.	
13			13	I think there is some housekeeping items	
14			14	that opposing counsel, Mr. Acho, as well as myself --	
15			15	did I do that right? Acho? Acho?	
16			16	MR. ACHO: Doesn't matter. Acho. Thanks.	
17			17	MR. MUNGO: Okay. Both want to put on the	
18			18	record relative to the deposition today.	
19			19	I want the record to reflect that on the --	
20			20	this deposition was noticed up -- do you have a copy	
21			21	of that, please? Is that your deposition notice?	
22			22	This deposition was -- notice was sent out	
23			23	on -- served upon opposing counsel on January 18th of	
24			24	this year. Today is the 29th of January. That is the	
25			25	notice of the deposition that we're currently sitting	
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1	Detroit, Michigan		1	for for Mr. Gregory Murray.	
2	Monday, January 29, 2018		2	And on Saturday, January the 27th, I	
3	10:17 a.m.		3	received an e-mail from opposing counsel, Mr. James	
4			4	Acho, indicating that I, counsel for Ms. Howlett, lead	
5	MARKED FOR IDENTIFICATION		5	counsel for Ms. Howlett, spoke with a Kathy Miller,	
6	DEPOSITION EXHIBIT 1		6	who was a one-time employee, police officer employee	
7	(January 27, 2018 E-mail)		7	with the City of Warren Police Department, who had	
8	MARKED FOR IDENTIFICATION:		8	retired some -- in excess of four, five years ago.	
9	DEPOSITION EXHIBIT 2		9	And in opposing counsel's e-mail, he indicates or	
10	(Discipline - Shawn Johnson)		10	makes statements that are actually not accurate	
11	MARKED FOR IDENTIFICATION:		11	relative to my conversation, the conversation that I	
12	DEPOSITION EXHIBIT 3		12	had with Ms. Kathy Miller.	
13	(Discipline - Barbara Beyer)		13	It should be important to note that, first,	
14	MARKED FOR IDENTIFICATION:		14	that Kathy Miller was and at the time that she did	
15	DEPOSITION EXHIBIT 4		15	so --	
16	(General Order No. 17-09)		16	MR. ACHO: Counsel, we're here for the	
17	MARKED FOR IDENTIFICATION:		17	deposition of Greg Murray.	
18	DEPOSITION EXHIBIT 5		18	MS. RAE-O'DONNELL: Yeah.	
19	(Affidavit of Gregory A. Murray)		19	MR. ACHO: I don't know why you're rambling	
20	MARKED FOR IDENTIFICATION:		20	on about Kathy Miller. You can address that e-mail	
21	DEPOSITION EXHIBIT 6		21	another time. We're here about Greg Murray. You can	
22	(October 24, 2017 Letter		22	discuss what I told you about Mr. Murray in my e-mail,	
23	RE: Resignation Consideration)		23	but we're not here about Kathy Miller.	
24	GREGORY MURRAY,		24	MR. MUNGO: Okay. All right. That's duly	
25	was thereupon called as a witness herein, and after		25	noted for the record. So I'm going to continue to	

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1 make my record.

2 That I had conversations -- represented by
3 opposing counsel that I had conversations with
4 Ms. Miller.

5 MR. ACHO: Conversation. One.

6 MR. MUNGO: A conversation with Ms. Miller.
7 Okay. Is that right? Let me double-check. It
8 says --

9 MR. ACHO: I wrote it. I'm telling you
10 it's right.

11 MR. MUNGO: In fact, I'm going to make this
12 an exhibit to this deposition today because it has a
13 reference to Mr. Murray as well. But it indicated
14 that I had called Kathy Miller by phone and that I
15 spoke with her, and she advised that she is an
16 employee of the City; as such is not comfortable
17 speaking with me. But that's not true. She never,
18 ever said that.

19 MR. ACHO: We can ask her at her
20 deposition.

21 MR. MUNGO: His e-mail goes on to state
22 that you continue to ask her questions on the phone,
23 questions of a probing nature. Ms. Miller is
24 represented by my office and is a City of Warren
25 employee. And after she advised you of such, you

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1 MR. ACHO: All right.

2 MR. MUNGO: And I will go through, I will
3 go through the city attorney as it relates to any
4 matters pertaining to the pending lawsuit.

5 MR. ACHO: Fair enough. That is not what
6 was relayed to me, but that's fine.

7 MR. MUNGO: That is exactly what occurred.

8 MR. ACHO: All right.

9 MR. MUNGO: And it should be noted for the
10 record that Ms. Miller was the retired police officer,
11 retired at the time, that actually reported the sexual
12 harassment and assault upon Ms. Howlett by Shawn
13 Johnson; that was confirmed in terms of his commission
14 and violation of Ms. Howlett's civil rights, and he
15 was -- and he was disciplined.

16 MR. ACHO: I have to object to this entire
17 soliloquy. It's completely irrelevant to the
18 deposition of Mr. Murray, which is our stated purpose
19 here today.

20 MR. MUNGO: So it should be -- there should
21 be no question that upon my discovery that Ms. Miller
22 was still an employee of the City of Detroit, I --
23 with the City of Warren, I terminated my conversation
24 with her and have not contacted her since. So counsel
25 did not need to tell me not to contact her.

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1 should have terminated the conversation. Please do
2 not attempt to contact her again.

3 And I just want to make the record clear
4 that Ms. Miller, as far as we knew here in my office,
5 was retired from the police department. And she did
6 retire from the police department.

7 MR. ACHO: Counsel, why are you doing this
8 now? Send me a letter in response. This has nothing
9 to do with this deposition. Why don't you talk about
10 everybody else in the city right now? It doesn't
11 matter. This is about Mr. Murray.

12 MR. MUNGO: Okay, Counsel. And that's
13 duly --

14 MR. ACHO: Send me a letter in response to
15 that.

16 MR. MUNGO: Duly noted for the record. And
17 actually the way the conversation took course was that
18 I had conversations with her; and at the end of that
19 conversation, she indicated that she was now working
20 for some sort of committee or commission --

21 MR. ACHO: Commission.

22 MR. MUNGO: -- for the City. And that --
23 and I told her at that time that since she's still an
24 employee of the City, that we probably should cease
25 this discussion.

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1 MR. ACHO: That's your position.

2 MR. MUNGO: I do my homework very, very
3 well.

4 MR. ACHO: That's your position.

5 MR. MUNGO: And I know what contact I am to
6 make and what contact I'm not to make.

7 MR. ACHO: Okay. Fair enough. Can we move
8 on?

9 MR. MUNGO: So now, the second part of
10 opposing counsel's e-mail related to Mr. Murray, where
11 he indicated that Mr. Murray was the former director
12 of diversity -- and this will be attached as an
13 exhibit to this deposition, Exhibit Number 1.

14 And as such, even though he is an
15 ex-employee, you technically -- and this is opposing
16 counsel writing, Mr. ACHO, to me in an e-mail -- you
17 technically are ethically precluded from speaking with
18 him.

19 At this point that milk is out of the
20 bottle. I know you have spoken with him and his
21 deposition is Monday. I will advise you, however,
22 that I will be placing an objection on the record at
23 the start of the deposition. And my objection is
24 twofold: One, the communication that went on with you
25 and Mr. Murray is out of bounds. Some of what

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1 Mr. Murray will testify to may well be privileged
2 and/or subject to covenant of nondisclosure.
3 Moreover and more importantly, his
4 testimony is irrelevant and not reasonably calculated
5 to lead to discoverable evidence. Mr. Murray did not
6 even know DeSheila Howlett, much less have any
7 decision-making authority regarding her employment.
8 As such, this will be subject to a motion to strike,
9 motion in limine. I will be placing said objection on
10 the record at the outset.
11 And Counsel, you're certainly entitled to
12 do so. And it should be noted --
13 MR. ACHO: Well, you just read it for me.
14 But I will again.
15 MR. MUNGO: Well, as I said, this is going
16 to be an exhibit.
17 MR. ACHO: You realize as a former
18 director, you are not supposed to talk to him. So
19 there's nothing inaccurate about what I said. But
20 again, that milk is out of the bottle. I do object --
21 MR. MUNGO: Well, we disagree on that,
22 Counsel.
23 MR. ACHO: Send a letter in response, but
24 I'd like to --
25 MR. MUNGO: Well, no --

1 considering Mr. Murray did not know DeSheila Howlett,
2 nor have any dealings with DeSheila Howlett or the
3 police department at large.
4 Finally, we would place an objection on the
5 record that Mr. Murray may have signed a nondisclosure
6 document in his contract when he became an employee
7 with the City of Warren, which would further preclude
8 testimony today.
9 For the reasons set forth, so that I don't
10 have to continually object during your deposition and
11 throw you off track or be disruptive, I'm placing a
12 standing objection as to all three objections that
13 I've stated. And they will be preserved throughout
14 the entirety of this deposition, and we will move to
15 strike the testimony and file a motion in limine
16 accordingly. Thank you.
17 MR. MUNGO: Okay. Now, first I want to
18 make it clear that -- and Mr. Murray is here today,
19 and he has his attorney, his counsel representation.
20 Attorney Michael Sharpe is present as well.
21 And I want to ask Mr. Murray. Mr. Murray,
22 have you had any conversations with me pertaining to
23 any -- and disclosing any conversations that you've
24 had with any city attorneys for the City of Warren?
25 THE WITNESS: No.

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1 MR. ACHO: I didn't ask you to read my
2 letter to you into the record. I said I want to place
3 an objection on the record.
4 MR. MUNGO: Okay. And that's fine.
5 MR. ACHO: Your entire last 15 minutes has
6 been a waste of our time and irrelevant. So I am
7 going to place an objection now on the record.
8 MR. MUNGO: All right.
9 MR. ACHO: My father Ron Acho is also
10 counsel on this case representing the City of Warren
11 and all the employees in DeSheila Howlett's case. He
12 has spoken at length to Mr. Murray. Ethan Vinson,
13 city attorney for the City of Warren, has also spoken
14 at length to Mr. Murray. As a result, the subject of
15 those conversations is subject to attorney-client
16 privilege.
17 The City of Warren does not waive its
18 privilege in any form or fashion related to
19 communications with Mr. Murray regarding the City of
20 Warren and/or DeSheila Howlett specifically. As such,
21 Mr. Murray is precluded from testifying regarding
22 anything involving DeSheila Howlett.
23 Having said that, should Mr. Murray decide
24 to testify regarding DeSheila Howlett and the City of
25 Warren, we would object on the basis of relevance

1 MR. MUNGO: All right. Make that clear.
2 And then of course Mr. -- Mr. Acho.
3 MR. ACHO: Yes, sir.
4 MR. MUNGO: By the way, you indicated that
5 Mr. Murray had signed a nondisclosure document with
6 the City of Warren?
7 MR. ACHO: Sir, I'm not going to discuss
8 anything further with you. I placed my objection on
9 the record. You and I can talk off the record after
10 the deposition. Let's move forward with the dep,
11 please. I don't want to have discussions on the
12 record with you.
13 MR. MUNGO: Well, Counsel, the only problem
14 with that, in due regard for the court rules and the
15 law, if Mr. Murray is under some kind of contractual
16 obligation based on a signed document that you've
17 represented under oath here today -- well, you're not
18 under oath, but on the record here today that he
19 signed obligating him not to testify here today, I
20 think his attorney is entitled to take a look at that
21 and advise him accordingly.
22 MR. ACHO: Are you giving Mr. Sharpe
23 advice? Because Mr. Sharpe's a good lawyer on his
24 own, Number 1; and Number 2, you made no request to
25 such document; Number 3, I have not seen such

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document.

MR. MUNGO: Okay.

MR. ACHO: I'm preserving my objection.

Move forward.

MR. MUNGO: That answers my question.

Okay. Very good.

MR. SHARPE: Used the word may.

MR. ACHO: Appreciate it.

MR. MUNGO: With that done, we're going to proceed.

EXAMINATION

BY MR. MUNGO:

Q. So Mr. Murray, could you state and spell for the record your full legal name, please.

A. Gregory Allen Murray. G-R-E-G-O-R-Y, A-L-L-E-N, M-U-R-R-A-Y.

Q. Thank you, sir. And Mr. Murray, I want to start out just with a little background information with regard to you, sir, your education and your profession as a professional. Could you provide that for us, sir, for the record.

A. Actually, I've been involved in several professions, but my most recent one as advocacy for diversity, particularly within Macomb County Government and Macomb County proper.

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Q. Okay.

A. I am the former first vice president of the Macomb County NAACP. I am also the former project manager for the Macomb County Ministry Alliance, which is a multi-denominational faith-based advocacy organization located in Macomb County.

I am a former school board president of the Mt. Clemens Community School District. I have been involved and helped to bring about a federal mediation regarding diversity with the Department of Justice and the City of Mt. Clemens over diversity-related issues.

Q. Okay.

A. I worked with -- advocated for and worked with the Macomb County Board of Commissioners, particularly under the leadership of Nancy White, to address issues related to diversity, hiring practices, et cetera, which resulted in the County revising their hiring practices towards the end of 2003.

And so as it relates to diversity, I've been very much involved in researching and addressing, articulating and negotiating around issues of inclusion and diversity. I also have --

Q. So how many years -- I apologize for interrupting you. But can you associate those different experiences, sir, and projects with a period of time for the

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record?

A. Yes. Approximately 17 years.

Q. 17 years. You've been involved in --

A. In Macomb County alone 17 years.

Q. In working in the area of --

A. Working in the area of diversity and inclusion, hiring practices, racism, discrimination, et cetera.

Q. Okay. Very good. And sir, for the record, what is your race?

A. I'm African American.

Q. And your gender.

A. Male.

Q. Male. Okay. So do you have any additional information, anecdotal experiences with regard to your work with diversity and inclusion in dealing with racism and employment and discriminatory practices in city government or in any other capacity that you'd like to add to the record?

A. It's primarily focused within Macomb County. I have a background as a journalist. I'm a published editorial columnist, a former military journalist, having been trained formally in the United States Air Force where I was the editor of the newspaper in Nellis Air Force Base in Las Vegas, Nevada.

And I advocated for people of color when I

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was employed with Cable Atlanta. I founded an organization called Minorities in Cable to help facilitate inclusion of minorities in the cable industry. And I was also the former president of the National Association of Black Journalists, the Atlanta Chapter, which was an advocacy-related position as well.

Q. Okay. Now, what period of time did that occur, sir?

A. That was 1980 through '81. There is something that I omitted. I worked in January of 2016 to help facilitate diversity training for Macomb County proper for its department heads, deputy department heads, supervisors, et cetera.

It was an eight-day diversity training, at which I consulted with the County of Macomb and its human resource director on the structure of the training to be conducted and participated during that entire eight-day period.

Q. Thank you, sir. And then if anything else comes to your recollection, you can stop me, and we can add that as well.

A. All right.

Q. Have you ever signed any nondisclosure agreements with the City of Warren?

A. No.

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1 Q. Did you ever sign a contract with the City of Warren
2 for the work that you did there as the diversity
3 coordinator?
4 A. I signed an appointment letter, some other documents
5 regarding internet usage, things of that nature but --
6 yeah.
7 Q. Okay. In fact, can you tell us about your employment
8 with the City of Warren as the diversity coordinator.
9 How did that come about?
10 A. An associate of mine brought to my attention the
11 posting for the diversity coordinator for the City of
12 Warren. I read it, saw what I thought were
13 deficiencies in it, relayed that to the person who
14 brought it to my attention. He referred me to the
15 human resource director, who was Phil Easter.
16 I knew Mr. Easter during my service as
17 president of the Board of Education for the Mt.
18 Clemens School District. I contacted Mr. Easter and
19 shared my assessment of the job description as
20 written. We had several different conversations of
21 which we talked about what would make a very strong
22 diversity coordinator.
23 He called me one day after several
24 conversations and asked me to accompany him to a
25 meeting with the mayor so that I might articulate why

1 A. 2017.
2 Q. 2017. And while you were there -- well, first of all,
3 let me strike that.
4 Let me ask you this: You're no longer
5 employed as diversity director for the City of Warren.
6 A. That's correct. I'm no longer employed as the
7 diversity coordinator.
8 Q. Were you terminated, sir?
9 A. I believe so, yes.
10 Q. You believe. Okay. Did you at any point in time
11 offer to resign?
12 A. Yes, I did.
13 Q. And did you put your offer to resign in writing?
14 A. Yes, I did.
15 Q. And so even though you have a resignation letter, your
16 testimony here today is that you were terminated.
17 A. Yes.
18 Q. And why do you represent that you were terminated even
19 though you had previously written a letter of
20 resignation?
21 A. The mayor rejected my letter of resignation, asked me
22 to stay on; that was on or about November 9th, because
23 November 10th was the date in my resignation letter as
24 would be my last day if he could not demonstrate a
25 recommitment to diversity.

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1 those revisions might be proper.
2 Q. Revisions to what, sir?
3 A. To the job description as posted.
4 Q. Which was?
5 A. For the diversity coordinator.
6 Q. Thank you.
7 A. Uh-huh. And I never applied for the job, was not
8 interested in the job. I was retired.
9 Went to the meeting, shared what my
10 observations were relative to the job description of
11 the diversity coordinator. And at the end of this --
12 it was nearly 90 minutes -- the mayor offered me the
13 job, and I turned it down. I rejected it.
14 Q. Why did you reject it?
15 A. Well, because I was retired, having fun with my
16 grandbabies, et cetera, et cetera.
17 But then the mayor shared with me some of
18 the things he would do to demonstrate his commitment
19 to diversity, asked me to go home and think about it.
20 I went home, talked to the boss, talked to
21 my wife about it, and then I decided to take the
22 challenge on. Called him back, let him know that I
23 would accept the position. And I started on January
24 6th.
25 Q. Of?

1 So he rejected my resignation letter on
2 November 9th, thereabouts, November 9th. And I
3 considered that matter closed. However, on December
4 8th, he called me in and indicated that he was
5 releasing me. And I went back to my office and that
6 was it.
7 Q. So why do you believe that he released you or
8 terminated you?
9 A. I believe he released me because of the
10 recommendations that I made to bring about diversity
11 within the City of Warren. I believe he released me
12 because I refused to receive, purchase, sell, tickets
13 to his fundraiser; and that enraged him. I believe
14 that -- for the purposes of not having someone walking
15 around, an appointee who refused to do that type of
16 bidding, that he released me.
17 Q. Okay. So just to make sure I have your testimony
18 clear, you believe it was a combination or one of the
19 other -- his resistance of you doing the diversity
20 work or your resistance to selling tickets and doing
21 other political things for the mayor?
22 A. It was a combination.
23 Q. It was a combination.
24 A. It was a combination of not fully being committed to
25 diversity and my pressing him to do that, and also the

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1 fundraising activity.

2 Q. So Mr. Murray, for the record, could you provide us
3 with some of the incidents and events that led up to
4 your being terminated by Mayor Fouts as diversity
5 coordinator for the City of Warren that was based on
6 his refusal or resistance to your doing diversity
7 work?

8 MR. ACHO: Before he answers, I just want
9 to place an objection on the record as to your use of
10 the word terminated.

11 It is our position that
12 Mr. Murray resigned. Mr. Murray can testify to
13 whatever he wants, but I would request that you do not
14 use the word terminated. The record will reflect
15 otherwise.

16 MR. MUNGO: And I would request that you
17 don't request that.

18 MR. ACHO: Please continue.

19 BY MR. MUNGO:

20 Q. Go ahead.

21 A. The mayor came into my office on at least three
22 occasions and shared with me that I would have to put
23 diversity on the back burner until after the 2019
24 election because he was concerned about a white voter
25 backlash if he were to aggressively pursue diversity.

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1 I attempted to have a conversation with him
2 about that, attempted to get on his schedule, was not
3 able to get on his schedule. On October 24th I put my
4 resignation letter in his hand at a staff meeting.

5 Q. Okay.

6 A. Principally because my primary purpose for coming to
7 the City of Warren was to advance diversity, identify
8 best practices, and find ways to incorporate that into
9 the fabric of the city.

10 Q. Sir, was that your principal purpose or only purpose
11 for coming to the City of -

12 A. Actually, it was my only purpose for coming to the
13 City.

14 Q. Okay.

15 A. Because again, my history with diversity and
16 advocating for diversity. Also the mayor wanted me to
17 take on the duties of the liaison for the City of
18 Warren in the census bureau, which is all together a
19 different range of activities, completely inconsistent
20 with my job description and why I came there.

21 And I thought that he wanted me to tread
22 water performing these other duties, eliminating focus
23 on diversity until after the 2019 election. And
24 again, that wasn't a part of my job description, had
25 nothing to do really with my primary duties as

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1 diversity coordinator.

2 Q. Okay. Mr. Murray, at any point in time prior to your
3 hiring in as diversity coordinator for the City of
4 Warren or any time thereafter, was it ever represented
5 to you, sir, that your job would vary from one task to
6 another and that you may be asked to do things
7 completely unrelated to the purpose for which you were
8 hired, that is, diversity coordinator?

9 A. No, no.

10 Q. Okay. And so you had expectations that your job would
11 be strictly focused on diversity; is that correct?

12 A. Yeah, that's correct.

13 Q. Okay. And it turned out not to be what actually
14 transpired with regard to the mayor's expectations of
15 you?

16 A. Yes, that's correct.

17 Q. So you tendered this letter of resignation. And I
18 want to take you back to your testimony where you
19 indicated that you had, I believe you had a
20 conversation with the mayor, and he rejected the
21 letter when you presented it to him, your letter of
22 resignation. And you continued to work in the
23 capacity of a diversity coordinator or in some other
24 capacity?

25 A. No. I continued on November 9th at a meeting where we

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1 discussed my letter. Subsequent to that he asked me
2 to stay on and I did until December 8th, working in
3 the capacity as a diversity coordinator and continuing
4 my work as a diversity coordinator.

5 Q. So you continued your work as a diversity coordinator
6 after November 9th; is that correct?

7 A. That's correct.

8 Q. Okay. But later, subsequent to that, to November 9th,
9 you were actually terminated by the mayor?

10 A. Yes. In-between November 9th and December 8th, I
11 attempted to continue my duties as diversity
12 coordinator, made recommendations to the mayor. And
13 then on December 8th, he called me into his office and
14 released me.

15 Q. Okay. So we need to know for the record what
16 specifically took place between November 9th and the
17 time, the date that the mayor terminated your
18 employment as diversity coordinator that led to the
19 mayor's termination of your employment with the City
20 of Warren?

21 A. Well, I put together a list of recommendations to the
22 mayor based on him having said that he would recommit
23 to diversity. I put to those to him in writing.
24 Those were rejected.

25 I also did not attend his fundraiser, and

7 (Pages 25 to 28)

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1 the issue was brought up. He was very adamant about
2 the need for loyalty and that he considers that to be
3 a sign of loyalty. And I shared with him that I had
4 never sold fundraising tickets for anyone throughout
5 all of my advocacy in Macomb County and that I never
6 would, at which he became even further enraged.

7 Q. And what occurred that caused you to believe that part
8 of the reason for your termination as a diversity
9 coordinator for the City of Warren by Mayor Fouts was
10 based on your continued work in the area of diversity?

11 A. Well, the recommendation that I made that he fully
12 fund the Office of Diversity and Inclusion, that he
13 properly staff it and resource it, which were promises
14 that he had made -- commitments he had made at the
15 onset of our engagement with each other. Those were
16 summarily rejected and --

17 Q. After November 9th?

18 A. After November 9th, yes.

19 Q. Okay.

20 A. After November 9th.

21 Q. And would that be in close proximity to his expression
22 about desiring loyalty from you?

23 A. Yes.

24 Q. Okay. So I'm going to show you Deposition, what's
25 been marked as Deposition Exhibit Number 6. And can

1 Q. Okay. And in that letter of resignation, does it
2 contain pretty much all of your representations for
3 why you chose to resign and later why the mayor
4 terminated you?

5 A. Yes, except for the issue of the fundraising tickets.

6 Q. Okay. That's not in there?

7 A. Right.

8 Q. That's not in there, what you're saying.

9 A. That's correct.

10 Q. Okay. I want to draw your attention to the second
11 page and the second full paragraph on the second page.

12 MR. SHARPE: This is a two-page document.

13 MR. MUNGO: It's a two-page document, yes.

14 Thank you, Mr. Sharpe.

15 THE WITNESS: Yes.

16 BY MR. MUNGO:

17 Q. Okay. The second full paragraph, there you address
18 the mayor's statements to you regarding his desire
19 that you not pursue the purpose for which you were
20 employed, and that is as diversity coordinator doing
21 the work of diversity for the City of Warren. Do you
22 see that paragraph?

23 A. Yes.

24 Q. Okay. Do you want to take a moment to read that or
25 are you pretty much familiar with the content therein?

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1 you take a look at that document, please. And after
2 you've taken a look at that document, sir, could
3 you --

4 MR. ACHO: I'm sorry. This is marked
5 exhibit what?

6 MR. MUNGO: Exhibit 6. Is that six on
7 there?

8 THE WITNESS: Yes.

9 MR. ACHO: What were the first five? I
10 know the first one was my e-mail. Do we have 2
11 through 5?

12 MR. MUNGO: Yeah. 2 is -- well, I haven't
13 gotten to them yet, but we do have 2 through 6.

14 MR. ACHO: So you're just doing it out of
15 order.

16 MR. MUNGO: Yeah. It's a little out of
17 order. I apologize for that.

18 MR. ACHO: That's all right.

19 THE WITNESS: Okay.

20 BY MR. MUNGO:

21 Q. Do you recognize Deposition Exhibit Number 6,
22 Mr. Murray?

23 A. Yes, I do.

24 Q. And what is that document for the record, sir?

25 A. This is my letter of resignation.

1 A. I'm pretty familiar with it.

2 Q. Okay. In that paragraph you indicated that the mayor
3 told you two weeks ago from the date of this letter
4 that he intended to put diversity on the back shelf
5 until after the election in 2019. Had the mayor made
6 that statement to you only once, Mr. Murray, or was
7 that a repeated statement?

8 A. It was a repeated statement.

9 Q. Approximately how many times -- I know you can't come
10 up with a specific number accurately, but was it like
11 more than three times, four times, five times?

12 A. Three times.

13 Q. About three times at least?

14 A. Yeah. At least three times, yes.

15 Q. Okay. So until after the election in 2019. Is that
16 when he's next up for re-election?

17 A. Yes.

18 Q. And so that puts you quite a bit of time, a period
19 into the future without doing any diversity work at
20 all; correct?

21 A. That's correct.

22 Q. And then you indicated that -- in that second
23 paragraph at the top of the second page of Deposition
24 Exhibit Number 6, that based purely -- the mayor had
25 based this statement and instruction purely on

8 (Pages 29 to 32)

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1 political considerations. You also go on to say that
2 the mayor expressed his belief that the climate was
3 not quite ready for diversity. Did he ever explain
4 that to you, what he meant by that?
5 A. He stated to me that he did not feel that the white
6 voters of Warren were prepared for diversity. He did
7 not want to suffer a backlash because there are other
8 things that were going on too that related to people
9 of color including LAM, which is Life Application
10 Ministries, and issues he was having there with that
11 black congregation. He talked about Dean Berry, who
12 is someone who he had a conversation with regarding
13 the lack of a need for diversity.
14 Q. Was this person African American or Caucasian?
15 A. Caucasian, Caucasian.
16 Q. And what is this person's position in the community?
17 A. He was explained to me as a community activist.
18 Q. But he was a white community activist.
19 A. He was a white, in the mayor's wording, racist
20 community activist who raised concerns about there
21 being the need for diversity coordinator or for
22 diversity-related initiatives.
23 Q. Okay. And so this white citizen, was he an employee
24 of the City of Warren?
25 A. No, he wasn't.

1 A. I would say yes because the mayor relayed to me, and
2 actually put Mr. Berry on speakerphone --
3 Q. Now, Mr. Berry's the Caucasian gentleman.
4 A. Yes.
5 Q. Okay. Who didn't want diversity.
6 A. Yes.
7 Q. And so he was put on the speakerphone by the mayor?
8 A. I was in the mayor's office.
9 Q. Okay.
10 A. He called Mr. Berry, put Mr. Berry on speakerphone,
11 introduced Mr. Berry to me via phone, and Mr. Berry
12 proceeded to say that we did not need diversity in the
13 City of Warren, that it was an unnecessary expense,
14 that if there were problems, people could go to court,
15 et cetera. And the mayor ended the conversation and
16 asked me to go -- to call Mr. Berry back.
17 I called Mr. Berry back. He was very
18 confrontational. He ended up hanging up on me. And
19 that was my last contact with Mr. Berry, except that
20 Mr. Berry submitted a Freedom of Information Act
21 request to get information regarding my job
22 description, my -- I guess my personnel file, et
23 cetera; and that was the last of my involvement in
24 matters associated with Mr. Berry.
25 Q. Did Mayor Fouts take a stand against the attitudes and

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1 Q. He was, as you said, a community activist?
2 A. Yes.
3 Q. And he was white.
4 A. Yes.
5 Q. And he was opposed to diversity.
6 A. Yes.
7 Q. Okay. And did this person, this person tend to have a
8 history of promoting racial division within the Warren
9 community?
10 A. According to the mayor, yes.
11 Q. That's what the mayor told you.
12 A. Yes.
13 Q. And the mayor told you that because this particular
14 citizen, who I'm assuming the mayor believed he had a
15 lot of influence in the city?
16 A. To some extent.
17 Q. To some extent.
18 A. Yeah.
19 Q. And that he didn't feel that white people were ready
20 to relinquish attitudes and overcome attitudes and
21 practices of racial discrimination within city
22 government?
23 A. Yes.
24 Q. Okay. And tell us a little bit about why you would
25 say yes to answering that question.

1 thoughts and position advanced by this white
2 Caucasian? What's his name again?
3 A. Berry. Dean Berry.
4 Q. Berry.
5 A. Not in my presence.
6 Q. Okay. So his first name is Dean.
7 A. Dean.
8 Q. Last name is Berry.
9 A. Berry.
10 Q. Do you know how to spell that name?
11 A. D-E-A-N, B-E-R-R-Y.
12 Q. And he's just a citizen in the community.
13 A. Yes.
14 Q. Considered a community activist --
15 A. Yes.
16 Q. -- that seemed to be partial to advancing white
17 supremacists' attitudes and notions?
18 A. To the exclusion of people of color, yes.
19 MR. ACHO: Just for the record, five times
20 now you've indicated the man's Caucasian and that he
21 supports white -- we got it. You don't have to keep
22 restating it. It's in the record very clearly five
23 times. Go ahead.
24 MR. MUNGO: Okay. So I shouldn't say
25 that --

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1 MR. ACHO: I would hope you wouldn't.
2 MR. VINSON: I'm wondering what does this
3 have to do with --
4 MR. ACHO: It has nothing to do with,
5 anything to do with this case. But that's all right.
6 MR. VINSON: I know.
7 MR. MUNGO: You two will find out soon
8 enough.
9 MR. VINSON: Can't wait.
10 MR. ACHO: I'm just amazed that you know
11 about all these incidents like with Mr. Berry,
12 Counsel, given that you haven't communicated with
13 Mr. Murray. I just find it surprising. You are
14 clairvoyant. Go ahead though.
15 BY MR. MUNGO:
16 Q. So Mr. Murray, you further noted that the mayor told
17 you that that might create a political backlash should
18 you aggressively promote diversity.
19 Do you recall any other conversations
20 around that statement that you had with Mayor Fouts?
21 Again, we're referencing, for the record, we're
22 referencing the second paragraph at the top of Page 2
23 of Deposition Exhibit 6.
24 A. **Only that he shared that sentiment on three different**
25 **occasions at least, and then within the same**

1 recommendations that you actually submitted to the
2 mayor and he rejected?
3 A. Yes.
4 Q. Any or all of them?
5 A. **Well, that was just a grouping of them. There were**
6 **more recommendations to come based on ideally a**
7 **follow-up to the initial recommendation that I made**
8 **after November 9th.**
9 Q. And you did have a chance to actually submit those to
10 the mayor.
11 A. **Yes, in writing.**
12 Q. And when you submitted those to the mayor, what was
13 his response?
14 A. **He would not do them.**
15 Q. Okay.
16 A. **Said I won't do this. I won't do that. I won't do**
17 **that.**
18 Q. Okay. He just blatantly stated overtly that he was
19 not going to do --
20 A. **He was not going to do it.**
21 Q. Or fulfill or carry out the recommendations that
22 you've had.
23 A. Yes.
24 Q. Okay. I notice also on the second page of Deposition
25 Exhibit Number 6, Mr. Murray, in the fifth paragraph

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1 conversation would talk about me being the -- assuming
2 the duties of the liaison for the census bureau.
3 Q. Okay. You mentioned earlier that there was a position
4 description or job description for diversity
5 coordinator.
6 A. Yes.
7 Q. Director. I'm sorry. Can you recall any of those,
8 any portions of those different duties and
9 responsibilities of that job description, Mr. Murray?
10 A. Uh-hmm. To identify best practices, to promote
11 diversity within the municipal workforce -- within the
12 City and the municipal workforce, you know, through
13 the City, to investigate issues involving issues of
14 discrimination or alleged discrimination, allegations
15 of discrimination within the City as well. Primarily
16 those were the -- my duties: To promote diversity,
17 identify best practices, to incorporate them within
18 the policies, to investigate issues of alleged
19 discrimination, recommend discipline with respect to
20 those -- the outcome of those investigations and to
21 allegations of racial discrimination.
22 Q. Okay. And the set of recommendations that you
23 discussed earlier, you put into the record that you
24 made to the mayor and the mayor rejected, would any of
25 those measures be a part of those or be among the

1 that is bold, in bold type.
2 A. Yes.
3 Q. You indicate with regard to my work -- and this is
4 your resignation letter to the mayor -- with regard to
5 my work environment, I also have a choice. And I am
6 stating to you directly that absent an irrevocable
7 reset and a doubling down of your stated commitment to
8 diversity, our work relationship will soon end. You
9 recall writing that.
10 A. Yes.
11 Q. Okay. And again, all of that was submitted with the
12 rest of the content of the Deposition Exhibit Number 6
13 to the mayor, and he rejected the letter and allowed
14 you to continue diversity work and later terminated
15 you for continuing the work; correct?
16 A. Yes.
17 Q. All right. So let me ask you this: Have you filed a
18 lawsuit against the City for wrongful termination?
19 A. No.
20 Q. Had you contemplated doing so at all?
21 A. No.
22 Q. And is it your intent to do so?
23 A. **I have not determined what my course of action, you**
24 **know, will be as it relates to that. I'll take the**
25 **advice of my counsel in regards to that.**

10 (Pages 37 to 40)

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1 Q. Okay. Are you embittered or angry with anyone in the
2 City of Warren as a result of your being terminated?

3 A. No, no.

4 Q. Can you explain for the record why you're able to
5 maintain a nontoxic or hostile attitude toward the
6 mayor or anyone in the City of Warren after having
7 been terminated for attempting to do the work that you
8 were hired to do?

9 MR. ACHO: Again, I'll restate the
10 objection. Mr. Murray resigned. He was not
11 terminated. Go ahead.

12 THE WITNESS: I have throughout my
13 experiences with diversity come to adopt a philosophy
14 and a mindset that allows me to buffer myself from or
15 to compartmentalize attitudes like this. It's the
16 only way that I've been able to continue to sit down
17 at a negotiating table and try to work through issues
18 with people.

19 So it's not my mindset or my practice to
20 demonize people, even when I believe that they are
21 very much incorrect. I have sat down across the table
22 with people that I consider to be bigots and still
23 negotiated with the idea in mind of advancing the
24 issues and causes of diversity. And so I'm not
25 letting that overwhelm me to the point where hatred

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1 Q. But you ultimately took the job.

2 A. Yes.

3 Q. So what would have been -- what happened to cause you
4 to come out of retirement that you weren't interested
5 in coming out of retirement to take that job?

6 A. Well, Number 1, it was the challenge to help a city
7 with a storied history come into the 21st century as
8 it related to diversity. It was that challenge and
9 the commitments that the mayor made initially which
10 also helped convince me to come on board. Because I
11 assumed erroneously that I would have his full and
12 genuine support. So those two things were my
13 motivating factors.

14 Q. Okay. And based on your testimony, after you saw
15 that, then you indicated, you used the word that the
16 mayor was disingenuous about doing -- improving
17 diversity, the state of diversity in the city, that
18 that motivated you to leave.

19 A. Yes.

20 Q. Okay.

21 A. To draft my letter.

22 Q. You gave him the letter.

23 A. Yes.

24 Q. And I just want to be clear for the record, even
25 though you gave him that letter, and I asked you this

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1 and resentment, those kind of things steal my spirit
2 and my energy. I'm not that kind of person.

3 So in that respect, I don't hate anyone
4 there. I enjoyed working with a whole host of people
5 there. Mr. Fouts is a very colorful person. I don't
6 hate him. I don't hate Ethan. I don't hate anyone at
7 the City of Warren.

8 It was -- it just revealed itself to be an
9 environment where the mayor I believe was not
10 generally -- genuinely committed to diversity. It was
11 a political calculation, I believe. And after nine or
12 ten months of the mayor coming into my office almost
13 every day for 10 to 15 minutes sharing his
14 perspectives and things of this nature, I came to the
15 conclusion that I needed to write this letter in order
16 to again share with him not only his commitment to
17 diversity but my commitment with respect to my job
18 duties. So no, I hold no animus, you know, towards
19 people. But the situation is what it is.

20 Q. Okay. And so your position -- in fact, you came out
21 of retirement you said earlier.

22 A. Yes.

23 Q. Correct? And you rejected the offer of the job to
24 begin with; correct?

25 A. Yes.

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1 earlier, resignation letter, he rejected the letter,
2 and you continued to work. And then later on, he
3 actually terminated you. You didn't voluntarily
4 leave. He terminated you. Correct?

5 A. I believe so, yes. That's my --

6 MR. ACHO: Counsel, just so we're clear,
7 this is not a deposition for Mr. Murray's employment
8 action, is it? Because I'm confused about this entire
9 line of questioning.

10 This case is called the DeSheila Howlett
11 versus Warren, a police officer who filed a lawsuit.
12 I don't know what any of these questions have to do
13 with anything or why we're even here.

14 MR. MUNGO: You guys going to do two
15 objections or you're going to just do one?

16 MR. VINSON: I was talking to Jim.

17 MR. MUNGO: I'm sorry?

18 MR. VINSON: I was talking to Jim.

19 MR. MUNGO: Yeah, but when you do that,
20 Counsel, you should write him a note or something or
21 we should take a break. Because that's really not
22 appropriate. That's not orderly.

23 Let the record reflect I'm about to show
24 the deponent Deposition Exhibit Number 5. And I'm
25 sorry, Mr. Ethan, Mr. Vinson, I only have three of

11 (Pages 41 to 44)

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these.

MR. ACHO: Can you make a couple copies for us so that Mr. Vinson has it before you question him?

MR. MUNGO: Absolutely.

MR. VINSON: Thank you.

(Off the record at 11:09 a.m.)

(Back on the record at 11:20 a.m.)

BY MR. MUNGO:

Q. So Mr. Murray, can you for the record, sir, share with us what the employment workforce in the city government for the City of Warren was by race and gender as best you can?

A. Yes. City of Warren has approximately a little more than 900 full-time and part-time employees. Based on the information provided to me by Mark Simlar, he was the human resource, active human resource director, approximately 6 percent of those employees are people of color.

Q. Are any of those people of color -- were any of those people of color, and we're talking during the year 2017 or going back as far as you're able to recollect just based upon your knowledge when you went in and you assessed the record and the current state of employment practices in the City of Warren government, were any of those positions within the police

that would lead to the police department better reflecting the demographics of the city as well, which was my overall goal.

Q. Which would have resulted in what ideally had that occurred?

A. A broadened applicant pool from which qualified people of color would rise through the civil service process and eventually become Warren police officers.

Q. Okay.

A. So it was a long-term -- I expressed a strategy for a long-term diversification, knowing that something like this does not happen overnight or even in the space of two or three years.

Q. And what would have been a representation of the demographics racially speaking, the demographics in the City of Warren community with regard to the police department had it accumulated and secured a representative portion in its police force of the community as it relates to African Americans?

A. According to the 2010 census, the African American population of Warren was roughly at about 13, 14 percent. That was 2010. And the 2016 census estimate put it somewhere around 16 percent or so. Given the undercount, it's probably around 17 to 18 percent based on my history of working with census

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department, City of Warren Police Department occupied by any persons of color?

A. Yes. There was one African American female who is DeSheila Howlett. She had been the lone African American law enforcement officer for a period of at least ten years.

Q. Okay. And as far as you know, in the history of Warren they've never -- an African American has never worked as a police officer in the City of Warren throughout its entire history as far as you know?

A. Right. With the exception of Ms. Howlett, yes.

Q. Okay. And with regard to the chief at the time that Ms. Howlett was employed there, who was the police chief? I think they call him the police commissioner.

A. Police Commissioner Jere Green.

Q. Jere Green. Okay. Did you have an opportunity to meet Jere Green?

A. Yes, I did.

Q. And can you, for the record, share that experience with us, please.

A. Approximately three weeks or so after I came on board, I scheduled a meeting with Commissioner Green. I went over, introduced myself to him, shared with him what some of my goals were, expressed an interest in collaborating with him regarding identifying processes

data.

And so with 200 and -- roughly 204 sworn law enforcement officers, if it were somewhat proportionate, there would have been at least 20 to 25 people of color inside the police department.

Q. Okay. So there were a total of about 240 --

A. 204, I believe.

Q. 204 police officers.

A. Sworn police officers.

Q. Sworn police officers. And the only African American at that time was --

A. Ms. Howlett.

Q. -- Ms. Howlett. Or at any point in time in the history of the police department.

A. To my knowledge, was Ms. Howlett.

MR. ACHO: Counsel, if I may, because you and Mr. Murray have interchangeably used the word people of color and African American, are we saying that people of color is just African Americans? Or are we referring to Arabs and Hispanics as people of color?

MR. MUNGO: Well, you can get that clarification --

MR. ACHO: Well, because you used it interchangeably as well; that's why I'm asking.

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1 MR. MUNGO: Don't worry about me.
2 MR. ACHO: I'm not worried about you. I
3 just want the record clear what people of color means.
4 MR. MUNGO: My record is clear.
5 MR. ACHO: All right.
6 MR. MUNGO: If you want it clearer, you'll
7 have the opportunity.
8 BY MR. MUNGO:
9 Q. Okay. So I want to reference you to your affidavit,
10 sir, Deposition Exhibit Number 5. Could you take a
11 look at that; and after you have done so, indicate
12 that you have. And I have some questions for you
13 regarding that exhibit.
14 A. Yes.
15 Q. Okay. And what is Deposition Exhibit Number 5 for the
16 record, Mr. Murray?
17 A. It's my statement regarding my experience as the
18 diversity coordinator for the City of Warren, and it
19 also reflects conversations that I had with the mayor.
20 It also reflects my participation in developing a
21 disciplinary response to behaviors that to me
22 reflected discriminatory practices.
23 Q. So it's your affidavit. You signed this over the
24 signature of a notary?
25 A. Yes, I did.

1 A. Matt Nichols.
2 Q. Matt Nichols. And you just indicated that all the
3 sworn police officers for the City of Warren were
4 white. Jere Green was white; correct?
5 A. Yes. Correct.
6 Q. And you said his -- was that his deputy --
7 A. Commissioner.
8 Q. -- commissioner?
9 A. Matt Nichols.
10 Q. Was?
11 A. Matt Nichols.
12 Q. Matt Nichols. And was Matt Nichols white as well?
13 A. Yes.
14 Q. Okay. So you got indirect feedback from your meeting
15 with Commissioner Jere Green regarding your plans for
16 aggressively pursuing diversity and implementing
17 diversity within the City of Warren Police Department
18 indirectly through Matt Nichols.
19 A. Yes. It was immediately -- well, the same day after I
20 met with the commissioner.
21 Q. And what happened?
22 A. Matt shared with me that the police commissioner went
23 into a meeting with his command staff and shared with
24 the command staff that he told that nigger, me, to
25 stay the fuck out of his house.

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1 Q. And I'm going to come back to this in just a moment.
2 But you indicated earlier, I think just before we
3 broke, that you had a conversation with Jere Green,
4 the then police commissioner --
5 A. Yes.
6 Q. -- regarding your vision and the work that you were
7 intending to do in promoting diversity --
8 A. Yes.
9 Q. -- within the department. Within the city, but
10 particularly and specifically the department, the
11 police department; correct?
12 A. Yes.
13 Q. Okay. And you've already stated for the record what
14 that conversation consisted of, Mr. Murray, and I'm
15 not going to go over that. But what I would like for
16 you to share with us on the record is did you ever
17 receive any feedback from Commissioner Jere Green, who
18 was the police commissioner of the City of Warren at
19 that time, during the time DeSheila Howlett was
20 working for the City of Warren Police Department, had
21 you ever gotten any feedback from him regarding that
22 meeting?
23 A. Not directly. But through his deputy police
24 commissioner, yes.
25 Q. And who was the deputy police commissioner?

1 MR. ACHO: I object at this point to
2 complete hearsay. Please continue.
3 BY MR. MUNGO:
4 Q. Okay. And that was --
5 A. Conveyed to me.
6 Q. That was conveyed to you.
7 A. Yes.
8 Q. And that was the only feedback that you got from Jere
9 Green regarding your meeting.
10 A. Yes.
11 Q. Okay. You have some references to Jere Green in your
12 affidavit relative to his attitude towards diversity
13 and African Americans; correct?
14 A. Yes.
15 Q. In fact, what we can do is take your affidavit one at
16 a time, paragraph at a time, and discuss pertinent
17 aspects of it. Okay? For clarification and
18 amplification of your affidavit in the record.
19 A. Yes.
20 Q. Okay? So you indicate in paragraph 2 that you served
21 as the diversity coordinator for the City of Warren
22 from January 6th of 2017 to December 8th of 2017.
23 A. Correct.
24 Q. Okay. So that's accurate, approximately 11 months.
25 A. Yes.

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1 Q. And during that period of time, you said you developed
2 an opinion that the City of Warren was vulnerable to
3 federal intervention and oversight due to its history
4 of the outcomes associated with racially
5 discriminatory employment practices.

6 A. Yes.

7 Q. Tell us what some of those racially discriminatory
8 employment practices were as you had observed and been
9 exposed to, sir.

10 A. I took a look at civil service process, which I
11 believe was inherently discriminatory with respect to
12 the process by which people would traverse the system
13 for employment with the police department.

14 I took a look at the contracts as well,
15 police and fire contracts as well, and noticed several
16 things: That there were no statements of support for
17 diversity within those contracts, as well no
18 negotiations around diversity being a desired element
19 within employment within the police department.

20 I took a look at the process by which there
21 was such a narrow publication of employment
22 opportunities presented by the City of Warren. I also
23 took a look at the previous lawsuit filed by the
24 Department of Justice in terms of what some of those
25 resolutions were supposed to include, including the

1 11:34 a.m.

2 MR. MUNGO: And let the record reflect that
3 I'm about to show the deponent Deposition Exhibit
4 Number 7. Counsel, you can take a look at that.

5 MR. ACHO: You don't have a copy of this?

6 MR. MUNGO: No, I do not. I do not. I'm
7 just going to ask him if he's familiar with that.

8 MR. VINSON: Is there a date on it?

9 MR. MUNGO: The date should be at the end
10 of the document there.

11 MR. ACHO: It's a 1986 case, when Ronald
12 Reagan was president.

13 MR. MUNGO: Who was president in 2002?

14 MR. ACHO: Doesn't matter.

15 MR. MUNGO: Reagan doesn't matter either.

16 MR. VINSON: None of this matters.

17 MR. ACHO: This is completely irrelevant.
18 They had apartheid in 1986, too. That doesn't exist
19 either. I don't know why you're bringing up
20 irrelevant stuff.

21 MR. VINSON: Can we get copies of that?

22 MR. ACHO: Probably not because it will
23 delay the deposition further.

24 MR. MUNGO: You gave it to me in discovery.

25 MR. VINSON: We did?

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1 wider dissemination of information about employment
2 opportunities that was not in place, was not a
3 continued practice, at least not when I got there as
4 well.

5 So in looking at disparate impact, which is
6 something that I'm somewhat familiar with in terms of
7 whether or not a policy doesn't necessarily have to be
8 discriminatory on its face in order to have a
9 disparate impact as it relates to people of color.

10 Q. So the Justice Department had actually sued the City
11 of Warren for discriminatory employment practices
12 already?

13 A. 1986, yeah.

14 Q. In 1986. And how long did that lawsuit last
15 approximately?

16 A. Until 2002.

17 Q. Till 2002. Approximately 15 years ago.

18 A. Yeah.

19 Q. And did this involve the police department,
20 discriminatory employment practices in the police
21 department?

22 A. I believe it was inclusive of that as well, yes.

23 **MARKED FOR IDENTIFICATION**
24 **DEPOSITION EXHIBIT 7**
25 **(Agreement and Order)**

1 MR. MUNGO: Yeah. You've got it.

2 MR. VINSON: I didn't know we were going
3 there with him.

4 MR. MUNGO: Actually I hadn't planned on
5 using that one, Counsel. I apologize.

6 BY MR. MUNGO:

7 Q. Okay. Mr. Murray, could you take a look at Deposition
8 Exhibit Number 7. And after you've had an opportunity
9 to review it, please indicate that you've done so.
10 Tell me if you recognize that document.

11 A. Yeah. I recognize it as what I reviewed while
12 employed with the City of Warren.

13 Q. Okay. And is that the Justice Department lawsuit
14 against the City of Warren and its police and fire
15 department, sir?

16 A. Yes.

17 Q. That was terminated -- filed in the '80s and
18 terminated in 2002.

19 A. Yes.

20 Q. Okay.

21 A. Appears to be, yes.

22 Q. Okay. And in that lawsuit it was alleged that the
23 city police department engaged in discriminatory
24 practices, employment practices; correct?

25 A. That's correct.

14 (Pages 53 to 56)

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1 Q. And so you were saying that those same discriminatory
2 employment practices or like kind are continuing
3 through today?
4 A. Like kind, yes.
5 Q. Okay.
6 A. Yes.
7 Q. And you were giving us some details in terms of how
8 it's manifested specifically today, or least as of
9 your period of employment in 2017, between January of
10 2017 and December 2017; correct?
11 A. Yes.
12 Q. Okay. Are there any other details that you would like
13 to add in terms of your observations of how the
14 discriminatory employment practices are able to
15 continue to survive in the City of Warren, in
16 particular the police department?
17 A. It was represented to me by the mayor directly that
18 Jere Green, the police commissioner, was a racist. It
19 was represented to me by the mayor that Jere Green
20 shared with the mayor that black people could not pass
21 the test or the -- the civil service test. Or the
22 background checks.
23 MR. VINSON: Excuse me. Can I get a
24 clarification? You're saying the mayor said this or
25 he said Jere Green said that?

1 Q. And successfully pass a background check, then that
2 would apply to all African Americans, it seems to me
3 from the way you indicate the mayor made that
4 statement about Jere Green.
5 A. That's correct.
6 Q. Okay. So he didn't say that Jere Green said that
7 African Americans without a high school education
8 can't pass the test or the background check.
9 A. No.
10 Q. He didn't say African Americans who have a history of
11 imprisonment can't pass the background check.
12 A. No.
13 Q. He just said all African Americans. Was that the
14 effect of his statement insofar as what you heard,
15 that all African Americans cannot pass the civil
16 service test and/or the background check to become
17 police officers?
18 A. He used the word blacks without any distinction.
19 Q. Okay. And what effect did that kind of statement have
20 upon you in terms of your belief and/or opinion about
21 Jere Green being open and receptive to employing
22 African Americans in the police department?
23 A. I took the mayor at his word, with him having had more
24 contact with Mr. Green than I; and what that meant to
25 me was that if the boss doesn't support it, the rank

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1 THE WITNESS: The mayor said this to me
2 about what Jere Green shared directly with him.
3 MR. VINSON: Okay.
4 MR. ACHO: So I would just place another
5 objection on the record as to hearsay. Go ahead.
6 BY MR. MUNGO:
7 Q. Okay. You're fine, sir.
8 A. Okay.
9 Q. They have a right, and they will be placing objections
10 on the record for purposes of preserving their
11 objections that later on they would lose the effect of
12 if they don't say it today. But it doesn't mean that
13 you don't continue to testify.
14 A. All right.
15 Q. Okay. And did the mayor ever explain to you why Jere
16 Green felt like that, believed that?
17 A. Well, beyond the mayor describing him as a racist, no.
18 Q. And if -- and you have a history of diversity work.
19 If a policy maker or head of the department, which in
20 many cases in city government are policy makers,
21 believe that a particular race, in this case African
22 Americans, are not -- African Americans are not able
23 to pass the test -- I'm assuming the civil service
24 exam?
25 A. Uh-hmm.

1 and file won't either.
2 I've been in enough situations -- I'm also
3 a former union executive vice president. And I know
4 that sometimes if the policy is not supported
5 genuinely at the top, rank and file members and
6 whatnot adopt that same attitude towards it. So it
7 would seem to me, based upon my professional
8 observations, that that would prohibit and eliminate
9 any efforts to diversify.
10 Q. And in the police department, exactly how did the
11 hiring process take place, if you were to give like a
12 30-second flowchart of who would be involved in making
13 the selection decisions?
14 MR. ACHO: If he knows. I don't think
15 we've established that he has that personal knowledge.
16 But go ahead and answer.
17 THE WITNESS: Well, from what I understand,
18 police command can project retirements, identify what
19 the staffing needs will be. They communicate that to
20 the human resource department. They begin the process
21 of initiating the protocol for announcing the opening
22 of the list. There's a publication of that, of those
23 opportunities. And then respondents bring in their
24 information, evaluate it, initially at the human
25 resource level for the requisite documentation, et

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1 cetera.

2 And then there's a civil service process
3 that involves testing, background, certification,
4 credentialing, et cetera. Then based on a person's
5 score, aggregate score, they're put on a list; and
6 that list is worked through until a person rises to
7 the top or within the range of officers that are going
8 to be brought on.

9 Q. Had you had an opportunity to examine whether or not
10 the exam that's given to African Americans, have you
11 had the chance to examine or at least view even at a
12 distance or peripherally the exam that's given to
13 police candidates for the police department?

14 A. No, that was the next phase. I spent the first couple
15 of months conducting my own internal research, doing
16 my due diligence to get some idea of what existed.

17 And then the second phase, and I would have
18 been to review those -- and that was a part of my job
19 description, too, is to review those policies and then
20 make a recommendation as to whether or not they might
21 need revising, et cetera. But it didn't get to that
22 point.

23 Q. As well as the post-test selection criteria that's
24 used --

25 A. Yes.

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1 Q. -- by the police department. Okay. Had anyone ever
2 indicated to you that either the test, the written
3 test that's taken to become a police officer for the
4 City of Warren and/or the post-test selection criteria
5 had ever been validated?

6 A. No.

7 Q. By any studies?

8 A. No, no.

9 Q. Okay. And so it was your position, and consistent
10 with paragraph 3, that if the Justice Department did a
11 review of the hiring and selection practices for
12 police officers in the City of Warren, that they would
13 be subject to and vulnerable to federal intervention
14 again?

15 A. Yes.

16 Q. And that's the current state that you left it at when
17 you left in -- when you were terminated in December of
18 2017.

19 A. Yes, yes.

20 Q. As the diversity director for the City of Warren.

21 A. Yes.

22 Q. I just wanted to add that for the record. Okay.

23 Next, in paragraph 4 you indicated that the
24 mayor, Mayor Fouts was tone deaf and disingenuous;
25 that is, that he wasn't genuinely interested in

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1 adopting practices necessary to address racial
2 diversity within city government and was afraid to and
3 would not take necessary steps to reverse racially
4 discriminatory employment practices within the city.

5 Now, you spoke to that an awful lot here,
6 and I don't want to rehash anything that you've
7 already testified to. But there's one aspect of this
8 particular paragraph that I'm particularly interested
9 in.

10 You seem to know in this particular
11 paragraph by stating that the mayor was aware that
12 there were racially discriminatory employment
13 practices within the city government. Can you expand
14 on that? Can you amplify on that why you came to that
15 conclusion?

16 A. The mayor did say to me that he suspected that there
17 were practices within the City's employment process
18 that excluded opportunities for people of color.

19 Q. He did tell you that.

20 A. Yes. And as it relates to the police department in
21 particular, he shared with me that he needed to
22 continue to garner the endorsement of the police
23 department, campaign endorsements for the police
24 department, and that he did not want to jeopardize
25 that by moving too aggressively in terms of changing

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1 policies that would result in the diversification of
2 the police department.

3 Q. So it seemed then that he was promoting and
4 maintaining and even cultivating a custom and policy
5 of employment discrimination against African
6 Americans. Does that seem to --

7 A. I think he was -- he supported maintaining the status
8 quo.

9 Q. Okay.

10 A. Again, with the consideration of 2019 elections and
11 getting re-elected again and not upsetting the
12 applecart, so to speak.

13 Q. In paragraph 5 of your affidavit, Deposition Exhibit
14 Number 5, you indicated that in your opinion Jere
15 Green, the police commissioner, was not an advocate of
16 diversity and was comfortable with the lack of
17 diversity within the ranks of the Warren Police
18 Department.

19 You've already talked quite a bit about
20 Jere Green. Is there anything you want to add to that
21 that would support why you came to that conclusion
22 that you write in paragraph 5 of your affidavit,
23 Deposition Exhibit Number 5?

24 A. Well, I put in writing to Commissioner Green requests
25 for certain documents and policies that were never

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1 responded to. And it was my intent to review those to
2 get some sense of whether or not any of those policies
3 or protocols or training records or whatever would
4 reflect a lack of effort to diversify or the ability
5 to revise some of those processes to result in
6 diversification.
7 Q. Okay. Was part of that analysis you were attempting
8 to do would be to determine whether or not there were
9 any built-in --
10 A. Biases, complicit bias or archaic institutional
11 impediments to diversity.
12 Q. So how long had you been waiting on this feedback or
13 to receive these documents, requested documents from
14 Commissioner Jere Green?
15 A. Roughly a month or so.
16 Q. A month or so? Did he finally give them to you?
17 A. No, they weren't provided to me. And Commissioner
18 Green was released from his appointment before I could
19 get them, and I never received them.
20 Q. Never received them.
21 A. No.
22 Q. Okay. And the City -- the mayor knew that you had
23 made requests for those documents; correct?
24 A. Yes.
25 Q. And did he ever respond positively to making sure that

1 that at the minimum, that she should receive a
2 two-week unpaid suspension and ultimately that became
3 part of her disciplinary response. However, that was
4 delayed until such time -- it was delayed for
5 approximately four to five weeks until such time as
6 she received her longevity check.
7 The second instance was the situation
8 involving Shawn Johnson, where a disciplinary response
9 had been fashioned which also included diversity
10 training, which was never provided or required of him.
11 And I shared the need to have that done.
12 The third was an incident involving a fire
13 department lieutenant who had used the N word to
14 describe a firefighter.
15 Q. Now, when you say the N word, what does --
16 A. A nigger.
17 Q. Okay.
18 A. And his participation in diversity as part of the
19 disciplinary response was not weeded out until such
20 time as I conducted an all-day diversity training for
21 all three of them, three of the people that I just
22 indicated. And so that to me seemed to reflect a
23 pattern of delayed disciplinary response to these
24 incidents.
25 Q. With regard to the fire department, the incident that

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1 you got those documents or respond at all to your
2 request?
3 A. No.
4 Q. Is that part of what you meant when you say the mayor
5 is deaf tone as it relates to -- or was that tone deaf
6 as it relates to diversity matters and concerns?
7 A. Yeah. It has everything to do with a lack of support
8 for the efforts I was making.
9 Q. Okay. Now, you indicated the City of Warren has a
10 history -- in paragraph 6 of Deposition Exhibit 5,
11 your affidavit, has a history of taking delayed
12 disciplinary action after its employees engaged in
13 racially discriminatory and otherwise racially
14 inappropriate conduct.
15 Can you amplify on that, please. Give us
16 some examples.
17 A. I can give you three examples.
18 Q. Okay.
19 A. The first example is the incident involving Barbara
20 Beyer and Ms. Howlett. There was no immediate
21 disciplinary action. In fact, I advocated for the
22 suspension that she ultimately received.
23 They were going to put a one-day unpaid
24 suspension in her file. This is what was shared with
25 me by Mark Simlar. And I protested that and indicated

1 you just described, what was said in use of the N word
2 and to whom was it said?
3 A. The firefighter, his name is Jose Suarez. He was
4 called the firehouse nigger because he was adept at
5 dealing with or fixing or taking care of things within
6 the department. So he was the overall firehouse
7 nigger.
8 Q. I see.
9 A. And that was the comment directed to him by the
10 lieutenant.
11 Q. I see. Like someone in servitude --
12 A. Yes.
13 Q. -- to the whites.
14 A. Yes.
15 Q. I see.
16 MR. MUNGO: Let the record reflect I'm
17 about to show the deponent Deposition Exhibit Number
18 2. And I'm sorry again. That's all I have. But you
19 guys gave this to --
20 MR. ACHO: That's not really the point
21 though. The point is you're using it today so -- I'm
22 not saying we don't have it.
23 MR. MUNGO: I apologize. I really --
24 MR. ACHO: I know, but you're qualifying
25 your apologies.

17 (Pages 65 to 68)

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1 MR. MUNGO: I really didn't expect you to
2 come here with two other lawyers. Okay?
3 MR. ACHO: They were here for your client's
4 deposition. Mr. Vinson's the City of Warren attorney.
5 Did you expect he wasn't going to be here?
6 MR. MUNGO: Next time let me know, and I'll
7 make sure we have enough copies.
8 BY MR. MUNGO:
9 Q. So Mr. Murray, once you're able to review that
10 document, please indicate that you have for
11 identification purposes. And then I have a few
12 questions to ask you.
13 A. Okay. Yes. I've looked through it peripherally.
14 Q. Are you able to identify that document, sir?
15 A. I have never seen this.
16 Q. Does the document contain any information that you are
17 familiar with describing any incidents or events that
18 you're familiar with? You can take your time and look
19 through it.
20 A. Okay.
21 Q. Does it involve Shawn Johnson?
22 A. Yes, it does.
23 Q. Okay. And the document is -- on the front page there
24 I think it gives a description of what the document
25 is?

1 sections of the different comments and data in this
2 report that you may recollect having been exposed to
3 or having been shared with you regarding Shawn Johnson
4 and DeSheila Howlett.
5 A. There's a page called inter-departmental
6 communication, and it says supplemental, and it's Item
7 Number 1. And it's a reference to Gorilla Glue.
8 Q. Okay. At the very bottom of the page, Mr. Murray,
9 about in the middle of the page, you'll see the
10 inscription DEFS then a hyphen and there's a number.
11 A. 000005.
12 Q. Okay. Let the record reflect that --
13 A. WPD Form 50.
14 Q. Okay. That Mr. Murray's referencing Deposition
15 Exhibit Number -- what was that number? Number 2,
16 Page 5.
17 Okay. And so you specifically recall that
18 particular incident between Shawn Johnson and DeSheila
19 Howlett, the Plaintiff herein; correct?
20 A. Yes, based on my conversation with Detective Johnson
21 at the onset of the diversity training. That's the
22 only incident that I'm -- I can see.
23 Q. And for the record, when you say at the onset of the
24 diversity training, tell us for the record what
25 diversity training you're referencing as it pertains

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1 A. Yes.
2 Q. At the first page?
3 A. Yes.
4 Q. Discipline of Shawn Johnson?
5 A. It's a personnel complaint.
6 Q. Personnel complaint against Shawn Johnson on behalf of
7 whom?
8 A. DeSheila Howlett.
9 Q. Okay. Go ahead. You can review that, sir. And tell
10 me if you are you able to identify any events
11 identified in this document that pertains to Shawn
12 Johnson.
13 MR. ACHO: Just for the record, I'm going
14 to place an objection. Number 1, he said he's not
15 familiar with the document. Number 2, this is two
16 years prior to Mr. Murray's employment with the City.
17 He has no personal knowledge.
18 I would object to any line of questioning
19 regarding this document. But go ahead.
20 THE WITNESS: I'm sorry. What was your
21 question?
22 BY MR. MUNGO:
23 Q. I think if you look at, I think if you look at the --
24 let's see. The first -- well, just skim it. Just
25 skim it and see how many of the statements and

1 to Shawn Johnson.
2 A. Okay. Detective Johnson participated in an all-day
3 diversity training that I conducted for Ms. Beyer, for
4 Detective Johnson, and for the fire department
5 lieutenant. It was meant to give them a broader
6 insight into the value of diversity and inclusion.
7 And he was a participant in that training.
8 Q. And during the time in which you had an opportunity to
9 provide this diversity training for Shawn Johnson,
10 were there any references or statements made by Shawn
11 Johnson with regard to his use or calling Ms. Howlett
12 a name that is considered racially derogatory and
13 demeaning?
14 A. Well, part of that involved me talking individually
15 with each of them. And during my conversation with
16 Detective Johnson, he admitted to using a bad choice
17 of words by calling -- by saying rather that she
18 looked like the image on the Gorilla Glue bottle.
19 Q. And were there any admissions made by Beyer, Barbara
20 Beyer, as it relates to the incident for which you
21 provided diversity training for her?
22 A. No, she never did. But the police -- excuse me. The
23 fire lieutenant did and apologized profusely.
24 Q. Okay. What did he admit to?
25 A. He admitted to using the word nigger. We met after

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1 the training. He stayed behind after the training.
2 Q. Okay.
3 A. And he expressed his remorse and personal
4 disappointment in him having said that. Shared that
5 it was not -- not him, which is a traditionally used
6 phrase when people say that to say that it's not them.
7 They didn't -- yeah. But at any rate, he did admit
8 and express regret.
9 Q. Okay.
10 A. He was the only one of the three that did really.
11 Q. Did he admit to you that there was a tradition and a
12 custom and practice of using that N word in the Warren
13 police --
14 A. No.
15 Q. Or Warren Fire Department?
16 A. No, he did not.
17 Q. He said he was just -- did he indicate how he came up
18 with the use of that word?
19 A. No.
20 Q. He didn't. Okay. And how did you come to training --
21 providing diversity training for Ms. Beyer? How did
22 that come about?
23 A. That was a part of our discussions regarding what the
24 disciplinary response should be for her. And it was
25 at my insistence that they all receive this full-day

1 investigation of whether or not Ms. Beyer had actually
2 used that word in front of Ms. Howlett more than once,
3 that was, that investigation sustained that that did
4 actually occur; is that right?
5 A. Yes, and Mark Simlar confirmed for me that Ms. Beyer
6 admitted to using the word.
7 Q. Okay. More than once.
8 A. Yes.
9 Q. And so I want to reference Deposition Exhibit
10 Number 3. Can you take a look at that document and
11 let me know if you're able to identify it, sir, the
12 content therein?
13 A. I have never seen this.
14 Q. You've never seen that? But what is deposition --
15 A. Oh, I'm sorry. I apologize. I did see the
16 DEFS-000024 and 25, the last two pages of what you
17 just handed to me.
18 Q. Okay. And those documents depict what?
19 A. Depict the finding of the investigation into the
20 incident regarding Ms. Howlett and Ms. Beyer and the
21 specified time frame within which she was originally
22 supposed to serve her suspension.
23 Q. So how long did it take between the date of the
24 incident and the date in which the disciplinary action
25 was taken against Ms. Beyer?

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1 training.
2 Q. Okay. Did you ever come to learn why Ms. Beyer needed
3 the diversity training?
4 A. Yes.
5 Q. And what did you understand precipitated the facts or
6 events that precipitated her need for diversity
7 training?
8 A. An African American male came to the counter, was
9 mistaken as to where he was supposed to register.
10 There was a back-and-forth exchange between Ms. Beyer
11 and this person. The person left. Ms. Beyer shared
12 with Ms. Howlett that that nigger would have killed
13 her, and I think repeated the word at least twice.
14 Yeah, at least twice. And that was relayed to me by
15 Mark Simlar, the acting human resource director.
16 Q. Did Ms. Beyer explain or make any statements relative
17 to why she used the word nigger in --
18 A. No.
19 MR. ACHO: Object at this point.
20 Mr. Murray already testified that Ms. Beyer never
21 admitted that to him. So anything Mr. Murray
22 testifies to is hearsay.
23 MR. MUNGO: Okay.
24 BY MR. MUNGO:
25 Q. But you did come to learn that it was sustained -- the

1 A. Approximately four weeks.
2 Q. Approximately four weeks. And what about the
3 diversity training, the time that went -- that passed
4 between the incident between Shawn Johnson and his
5 discriminatory conduct toward Ms. Howlett and the
6 diversity training that he received?
7 A. I think that was a year and a half or so.
8 Q. Year and a half?
9 A. Or more.
10 Q. Year and a half or so.
11 A. Or more.
12 Q. I'm sorry. Go ahead.
13 A. Roughly a year and a half or so longer.
14 Q. Okay. Before he got any diversity training.
15 A. Yes.
16 Q. And did you ever come to learn what happened behind
17 Shawn Johnson engaging in this prohibited
18 discriminatory conduct toward Ms. Howlett, how that
19 matter was handled in terms of any consequences for
20 Mr. Shawn Johnson and Ms. Howlett? For example, were
21 they separated in environments or --
22 A. From what I understand, she was put back in up under
23 him or in proximity to him after she complained about
24 the incident. But other than that, I'm not aware of
25 any of the other disciplinary actions that the City

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1 took.

2 Q. I see. But you were aware that the City's
3 investigation of Ms. Howlett's complaints against
4 Shawn for his discriminatory, racially discriminatory
5 and demeaning conduct toward Ms. Howlett resulted in
6 him being separated in work environments from
7 Ms. Howlett. You did learn that.

8 A. Yes.

9 Q. And you also came to learn that he was -- she was
10 later put right back in the environment in close
11 proximity to where he was working?

12 A. Yes.

13 Q. Okay. And is that, from your experience as a
14 diversity coordinator and doing your work in diversity
15 and race relations and discriminatory practices, is
16 that a wise thing, an acceptable best practice to put
17 a victim, someone who has been sustained in terms of
18 the investigation of finding that that person was
19 victimized in the case of Ms. Howlett, being put back
20 in the work environment with Mr. Johnson?

21 A. No. That's wholly inappropriate to -- this again is
22 based on my nearly eight years as a union vice
23 president, based on my experience dealing with
24 discrimination in the workplace. It's wholly
25 inappropriate to put the victim back into an

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1 environment in close proximity to the perpetrator.

2 Q. Is there a reason for that?

3 A. Yeah. It creates a potential hostile work
4 environment. It creates stress and anxiety for the
5 victim of the incident. It can lead to castigation by
6 other employees in the general area as well. And so
7 there are quite a few negative consequences of that.

8 Q. So that employee should never be put back in that same
9 work environment with the employee who victimized the
10 victim?

11 A. That's correct.

12 Q. And back to your affidavit, Deposition Exhibit Number
13 5, looking at paragraph 6, with regard to the time --
14 the space of time between Ms. Beyer's -- the
15 disciplinary action taken against Ms. Beyer, you
16 indicated earlier that she was not terminated -- or
17 not terminated but suspended until after she received
18 some kind of bonus check?

19 MR. ACHO: I'm going to ask at this point
20 that we take a break. You are going unbearably slow.
21 You indicated you were just going to touch on
22 pertinent parts. You are going line by line. You're
23 only on Number 6 out of 16, and you just -- you're
24 extremely slow.

25 MR. MUNGO: You need to take a break?

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1 MR. ACHO: So let's take a break. And we
2 may need to adjourn the deposition if you don't finish
3 by a certain time because I was led to believe this
4 would be a quick deposition.

5 The majority of this is just irrelevant.
6 And you have -- it's your deposition. You're entitled
7 to do what you want to do. But we may have to
8 continue this deposition on another day if this is how
9 we're going to continue, because Mr. Vinson and I both
10 have meetings this afternoon, as does Ms. O'Donnell.

11 So with that, I don't want to speak for
12 anybody here. Do we want to take a lunch break? I
13 need to use the restroom. It's a quarter after 12:00.

14 MR. MUNGO: I don't need a lunch break. Do
15 you need a lunch break, sir? Do you need something?
16 Mr. Sharpe, do you need anything?

17 MR. SHARPE: Whatever the majority --

18 MR. ACHO: How long do you anticipate?
19 Based on the fact you're only on Number 6 --

20 MR. MUNGO: Listen. Listen. You're not
21 going to narrow down my -- I've got seven hours
22 according to the court rules, and you're not going to
23 narrow down my deposition so --

24 MR. ACHO: No, no, no. I'm not
25 attempting --

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1 MR. MUNGO: What do you need? Tell me what
2 you want.

3 MR. ACHO: Well, it's quarter after 12:00.
4 I'm not telling you how to conduct it, but you
5 indicated this was going to be a quick deposition.
6 And you're -- you're repeating yourself, and it's
7 just, it's taking far too much time.

8 So here's what I'm going to say: We will
9 go until -- I don't want to speak for Ethan. Did you
10 want to take a lunch?

11 MR. MUNGO: We don't need a lunch.

12 MR. ACHO: I have a 3:30 meeting in Livonia
13 that I have to be at. I know you have a 3:00 or 3:30
14 meeting, as does Beth.

15 MR. VINSON: We can break at 2:00. Would
16 that --

17 MR. ACHO: Break at 2:00 and then continue
18 this next week. Is that okay with you?

19 MR. MUNGO: Well, why didn't you indicate
20 that before --

21 MR. ACHO: Because when you and I spoke,
22 you said this was going to be a really quick
23 deposition. And it's not.

24 MR. MUNGO: Yeah, but if you --

25 MR. ACHO: And so I planned accordingly.

20 (Pages 77 to 80)

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1 MR. MUNGO: If you had to leave at a
2 certain time, Counsel, you were obligated to inform me
3 of that.

4 MR. ACHO: Well, when we spoke on the
5 phone, you said this was going to be a really quick
6 deposition. So it's not a really quick deposition.
7 So these things happen. So I'm restating --

8 MR. MUNGO: Okay. So you're taking up
9 valuable time now. We're going to continue.

10 MR. ACHO: All right. And then we'll agree
11 to adjourn at 2:00 and continue this next --

12 MR. MUNGO: No. I'm not going to agree to
13 adjourn at 2:00.

14 MR. ACHO: Counsel.

15 MR. MUNGO: I'm not going to agree to
16 adjourn.

17 MR. ACHO: Then we're taking a break right
18 now. We're going to take a lunch break. Thanks.

19 MR. MUNGO: Let's set the time.

20 MR. ACHO: It's 12:15.

21 MR. MUNGO: How much time do you need to
22 eat?

23 MR. ACHO: We'll just go downstairs.

24 MR. MUNGO: Can you be back at 12:30?

25 MR. VINSON: No.

1 MR. ACHO: Not first learned. I told
2 you --

3 MR. VINSON: We thought this would be a
4 two-hour dep.

5 MR. ACHO: That's what you indicated to us.

6 MR. VINSON: I thought we'd be out of here
7 by now.

8 MR. MUNGO: How long you've been practicing
9 law, sir?

10 MR. VINSON: Long enough to know how long a
11 dep should run, man.

12 MR. ACHO: Especially this one.

13 MR. VINSON: 40 years plus. Okay? If you
14 want to know specifically.

15 MR. MUNGO: Okay. So then you know how I
16 conduct my cases.

17 MR. VINSON: No. This is my first exposure
18 to you.

19 MR. ACHO: I've never had a case with you
20 either.

21 MR. VINSON: I have no idea. I'll know in
22 the future.

23 MR. MUNGO: Do you know I have multimillion
24 dollar cases under my belt?

25 MR. ACHO: So do I, and I can do the dep in

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1 MR. MUNGO: What about 12:40? 12:40?

2 MR. VINSON: I don't know. We'll see.

3 MR. ACHO: Just as you don't want to be
4 limited in your deposition --

5 MR. MUNGO: That's 25 minutes.

6 MR. ACHO: And we're up here on the 15th
7 floor, and we've got to get down there. We've got to
8 order. You're not being reasonable.

9 MR. MUNGO: And then you're going to leave
10 at 2:00?

11 MR. ACHO: No. If we're going to leave at
12 2:00, we wouldn't take a lunch break right now. So
13 why don't we just continue right now, take a
14 five-minute bathroom break, continue, adjourn at
15 2:00 p.m., and then just wrap this up next week or the
16 following week? That's all I was suggesting.

17 MR. MUNGO: Oh. So you're saying --

18 MR. ACHO: We'll take a five-minute break
19 right now, go till 2:00 or 2:30 max today, and then --

20 MR. MUNGO: So you're saying if you take --

21 MR. ACHO: Mike, you understand.

22 MR. MUNGO: If you take a lunch break, then
23 you're not going to cut my deposition short by saying
24 that all of a sudden today I first learned that you
25 got -- you have a meeting to go to.

1 35 minutes.

2 MR. VINSON: So what? That doesn't mean
3 anything to me.

4 MR. ACHO: Come on, man. I don't care
5 about your resume.

6 MR. MUNGO: What it means is that you make
7 your decision to go get your lunch or stay here and
8 take your five-minute break.

9 MR. ACHO: All right. We're taking a
10 five-minute break --

11 MR. MUNGO: Whatever you're going to do,
12 just do it.

13 MR. ACHO: We're taking a five-minute
14 break, and we're going to conclude at 2:30. And we
15 will finish the deposition at a mutually convenient
16 day because that was the tacit understanding we had.
17 We'll be back in five or ten.

18 MR. MUNGO: Whatever you want to do.

19 MR. ACHO: Thank you, sir.

20 MR. VINSON: Okay. Thank you.

21 (Ms. Rae-O'Donnell exits the room at
22 12:15 p.m.)

23 MR. MUNGO: We'll talk to the Court -- if
24 we're going to stop at 2:30, we're going to talk to
25 the Court.

21 (Pages 81 to 84)

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1 MR. ACHO: We're not going to talk to the
2 Court. We just --
3 MR. MUNGO: Yeah, we are.
4 MR. ACHO: Now you're talking as my
5 colleague has left the room.
6 MR. MUNGO: I'm going to call the Court and
7 tell the Court what's going on.
8 MR. ACHO: As my colleagues have left the
9 room.
10 MR. MUNGO: Yeah, okay. All right. Go
11 ahead.
12 No. I'm not going to call right now. I'm
13 going to call when you get back. If I'm not done and
14 you try to leave at 2:30, I'm calling the Court.
15 MR. ACHO: Counsel, we just had an
16 agreement.
17 MR. MUNGO: No, there's no agreement. You
18 should have told me before today, long before today --
19 MR. ACHO: Counsel, on the phone --
20 MR. MUNGO: That ain't going to fly with
21 me, Counsel. That ain't going to fly with me. Okay?
22 MR. ACHO: I don't want to bother Judge
23 Berg.
24 MR. MUNGO: Whatever you want to do.
25 MR. ACHO: I don't want to bother Judge

1 (Off the record at 12:16 p.m.)
2 (Back on the record at 12:20 p.m.)
3 BY MR. MUNGO:
4 Q. We're back on the record. Did you answer the
5 question? I asked you a question about the space in
6 time between Beyer -- it being confirmed that Beyer
7 actually used the word nigger repeatedly in front of
8 Ms. Howlett and the time at which she got her
9 discipline. You said it was four weeks; is that
10 correct?
11 A. At least, at least four weeks.
12 MR. ACHO: Asked and answered. I'm going
13 to start placing asked and answered objections on the
14 record.
15 MR. MUNGO: Okay.
16 MR. ACHO: Because you keep repeating
17 yourself, sir. And that is the cause of the delay of
18 this dep. Go ahead, sir.
19 MR. MUNGO: You know, Mr. Acho, there's a
20 proper way to make --
21 MR. ACHO: You know, you keep
22 mispronouncing my name even though you asked me how to
23 pronounce it.
24 MR. MUNGO: Acho, Acho; right?
25 MR. ACHO: Well, is it Mungo or is it

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1 Berg.
2 MR. MUNGO: You know what I'm going to do.
3 MR. ACHO: I don't want to bother Judge
4 Berg.
5 MR. MUNGO: Okay? You know what I'm going
6 to do. So just go ahead and do -- you got your
7 choice. Five-minute break or lunch. Okay?
8 MR. ACHO: So we do have a choice. Wait a
9 minute. We do have a choice.
10 MR. MUNGO: Well, I can't make you do
11 anything.
12 MR. ACHO: No, no, no.
13 MR. MUNGO: You just told me what you're
14 going to do.
15 MR. ACHO: No, no.
16 MR. MUNGO: So make your choice so we can
17 get going.
18 MR. VINSON: Well, I've got to run to the
19 men's room.
20 MR. ACHO: So do I.
21 MR. VINSON: You battle this out.
22 MR. ACHO: No. We already had an
23 agreement.
24 MR. MUNGO: I'm not talking about it
25 anymore. I told you what I'm going to do.

1 Mungo? I don't mispronounce your name.
2 MR. MUNGO: Okay.
3 MR. ACHO: I mean, you're intelligent
4 enough that you shouldn't keep repeatedly -- you
5 pronounced my name three, four different ways since
6 I've known you. I don't understand that. Is it
7 deliberate?
8 MR. MUNGO: Okay. So why don't you tell me
9 the correct pronunciation.
10 MR. ACHO: I told you multiple times. It's
11 Acho.
12 MR. MUNGO: Acho.
13 MR. ACHO: Like a nacho with no N.
14 MR. MUNGO: Okay. Thank you. I got it.
15 And I apologize.
16 MR. ACHO: You don't have to.
17 MR. MUNGO: I don't like to mispronounce
18 anybody's name.
19 BY MR. MUNGO:
20 Q. Okay. So I asked you about the difference in that
21 time frame, and you said about four weeks.
22 A. At least four weeks.
23 Q. Was there something else that occurred during that
24 period of time prior to Ms. Beyer receiving the
25 discipline?

22 (Pages 85 to 88)

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1 A. There were meetings about her discipline. There was
2 conversation about what some of the defenses might be,
3 which -- do you want me to elaborate on that?
4 Q. Well, did anything occur that would appear to be more
5 of a reward to Ms. Beyer than a disciplinary action
6 during that period of time?
7 A. Well, she was continuing to work. She was allowed to
8 continue to work and to continue to draw her paycheck.
9 And again, as I said, the actual discipline
10 was not weeded out until she received her longevity
11 check. And the reason why I know that is I requested
12 all of her pay documents from the point that the
13 discipline was determined. Because it had been at
14 least a month, and she was still on the job. So I, of
15 my own, requested her pay documents; and that's how I
16 discovered it.
17 Q. Did it appear to be a reward for her to get a bonus
18 check before she actually went out on her discipline
19 to you?
20 A. Longevity checks are a standard part of union
21 negotiated contracts, and so that would not have been
22 a reward for her. It's something that's contractually
23 obligated to her.
24 Q. Okay. It was just the timing in which she received it
25 you think?

1 A. He essentially talked about how people with Tourette's
2 syndrome were prone to make excited utterances,
3 uncontrolled, unfiltered utterances, profanity and
4 things of this nature. He was waving his hands while
5 he was giving this example of people with Tourette's
6 syndrome.
7 Q. Was there a reason why he was making that point, or
8 did he state a reason why he was making that point?
9 A. They were talking about whether or not that kind of
10 behavior would be prohibitive behavior with respect to
11 employing the person, in that context.
12 Q. And the mayor said that it would be prohibitive.
13 A. He used that example.
14 MR. VINSON: That was asking questions.
15 THE WITNESS: He used that example. He
16 asked -- yes, he did ask that question. But he did it
17 in such a way where it was very emphatically and
18 visually offensive not only to me but to the trainer
19 and also to other members of his staff. Afterwards he
20 asked me to destroy the tape.
21 BY MR. MUNGO:
22 Q. Did he say why he wanted you to destroy the tape?
23 A. Because he was concerned that it might draw a
24 connection to the first tape that was released that
25 dealt with him describing people with disabilities as

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1 A. Yes.
2 Q. Received her discipline?
3 A. Yes.
4 Q. That made it appear to be an attempt to go easy on
5 her?
6 A. Yes.
7 Q. And in paragraph 13, sir, where you indicate that
8 Mayor Fouts had made disparaging comments about people
9 with Tourette's syndrome?
10 A. Yes.
11 Q. What happened there? Could you amplify on that for
12 just a moment? And he asked you to erase the tape,
13 the recording of that?
14 A. I arranged for a training to be conducted by the EEOC
15 regarding EEOC regulations as it relates to
16 municipalities. It was being recorded.
17 And during that training, Mayor Fouts made
18 some very disparaging comments and mockery of a person
19 with Tourette's syndrome. Afterwards -- and there
20 were quite a few witnesses to that, including the
21 person who conducted the training.
22 Q. Okay. Who was that, by the way? If you recall.
23 A. Lolita Davis from the EEOC.
24 Q. Do you recall what the mayor said or the effect of
25 what he said?

1 deserving of being caged and things of that nature.
2 Q. Did you ever hear him make those comments?
3 A. The first --
4 Q. Yes.
5 A. -- comments? No.
6 Q. No. You just heard the tapes?
7 A. I heard the tapes. But when I went to work with him,
8 I gave him the benefit of the doubt.
9 Q. Did he say he was concerned with that, his comments
10 about the people with Tourette's being connected with
11 the first tape?
12 A. Yes.
13 Q. He did say that?
14 A. Yes.
15 Q. What did he say?
16 A. Well, he said that if people were to see that, they
17 might think that he actually said what was on the
18 first tapes.
19 Q. I see.
20 A. So he ordered me to destroy the tapes, the tape.
21 Q. Okay.
22 A. Which I partially complied with.
23 Q. Now, in your last paragraph there on page -- on the
24 third page of your affidavit, Deposition Exhibit --
25 I'm sorry. Fourth page of your affidavit. Deposition

23 (Pages 89 to 92)

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1 Exhibit Number 5, Number 16, you render what is
2 considered to be an opinion. In fact, you start that
3 paragraph off with it is your opinion that Mayor Fouts
4 hired you as the city's diversity coordinator as
5 window dressing and merely a political calculation, to
6 give a false impression that he and the city
7 government was interested in abating discrimination
8 based on race within the city.

9 What caused you to arrive at that
10 conclusion and to evolve and develop that opinion
11 other than what you've already put in the record?

12 A. Well, essentially that, that he reneged on his
13 commitment to diversity, informed me that he wanted to
14 put diversity on the back burner, redirecting my
15 energy and focus away from the diversity, and declined
16 to accept the recommendations that he hired me to
17 develop to bring the city into more compliance with
18 diversity and to better reflect the demographics of
19 the city within the municipal workforce.

20 Q. I see. I see. I'm going to show the deponent
21 Deposition Exhibit Number 4. Take a look at that,
22 sir. That's the discrimination and sexual
23 harassment --

24 A. Before we do that, can I take a break?

25 Q. Yes, sir.

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1 Q. Okay. Did you ever receive it?

2 A. No.

3 Q. Do you have any reason to believe that they actually
4 had one in existence since you had never seen one
5 after having requested it?

6 A. No.

7 Q. Sir, on this particular document, it has the --
8 attached to it in the back -- this document for
9 whatever reason doesn't have the numerical
10 inscriptions on the bottom. But I'm going to
11 reference you to about three pages that are attached
12 to the very back, the end of this document, the last
13 three pages.

14 That first page that's up at the top
15 there's an inscription, 2017, parenthetical, February
16 through May of 24-hour training block. What does that
17 represent, if anything, to you, sir?

18 A. The first reference describes an in-service conducted
19 by James Friedman who is a chaplain and part-time New
20 Baltimore police officer.

21 Q. Okay. Now, this particular time frame -- do you
22 recall when Ms. Howlett actually left the Warren
23 Police Department or the last day that she worked
24 there?

25 A. Not specifically, but I think it was in the beginning

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1 (Off the record at 12:29 p.m.)

2 (Back on the record at 12:38 p.m.)

3 MR. MUNGO: Let the record reflect that
4 I've given Mr. Murray, the deponent, Deposition
5 Exhibit -- what number is on there, sir?

6 THE WITNESS: Four.

7 MR. MUNGO: Number 4.

8 BY MR. MUNGO:

9 Q. Could you take a look at that document for
10 identification purposes and tell me whether or not you
11 recognize it.

12 A. I have never seen this.

13 Q. Never saw it. Okay. And what does that document
14 purport to be based on the inscriptions on it, sir?

15 A. General order regarding discrimination and sexual
16 harassment.

17 Q. For whom?

18 A. For the Warren Police Department.

19 Q. For the Warren Police Department. And have you ever
20 been shown this document or had access to this
21 document or ever even known that this document was in
22 existence during the time you served as diversity
23 coordinator for the City of Warren?

24 A. No, but this would have been included in my request
25 for documents.

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1 of the second quarter of the year, I believe.

2 Q. Which would have been?

3 A. Around March or April.

4 Q. March or April?

5 A. To my recollection.

6 Q. Yeah, no problem. And this training took place
7 between what months in 2017?

8 A. Began in February and would have went through May,
9 yeah.

10 Q. Okay. Are you familiar with the person who
11 apparently, based on the inscription here, conducted
12 that training, James A. Friedman?

13 A. Yes.

14 Q. And are you familiar with the training that he
15 conducted?

16 A. I attended one session which was to be repeated for, I
17 think approximately 13 weeks.

18 Q. 13 weeks.

19 A. Yeah.

20 Q. And how much training would each police officer --
21 this was for the police department; correct?

22 A. Yes, it was.

23 Q. So how much training time would each police officer
24 have received had they attended this training?

25 A. I believe this was on a rotating basis. All I know is

24 (Pages 93 to 96)

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1 that Friedman shared with me that he would do a one
2 and a half hour orientation rotating through all of
3 the officers to include that time period so I –
4 Q. I understand.
5 A. That's the best I can answer.
6 Q. I understand. Was that supposed to be diversity
7 training?
8 A. It was supposed to be not diversity training so much
9 as an orientation or an in-service.
10 Q. Okay.
11 A. There's a difference between an in-service and actual
12 training. An in-service is primarily just a
13 presentation of information. A training involves
14 exercises, interactive processes, providing written
15 documentation that one would follow through the course
16 of the training itself.
17 Q. So then this was not diversity training of any sort;
18 correct?
19 A. Not in its genuine form, no.
20 Q. Would that have been effective in assisting police
21 officers with any potential racist attitudes, sexist
22 attitudes at all?
23 A. No, because the amount of time would not allow to go
24 in depth into those individual areas. Take, for
25 example, implicit bias, subconscious bias is a part of

1 Q. And how long had you waited for that information and
2 never received it?
3 A. Approximately four or five weeks, just before
4 Commissioner Green left.
5 Q. Okay. And you still never received it.
6 A. No.
7 Q. And so far as you're concerned, is there any evidence
8 that you detected that there was ever any training
9 provided to the Warren Police Department and its
10 executives that addressed racially discriminatory
11 attitudes and employment practices?
12 A. No.
13 Q. Have you ever come across information, sir, directly
14 or indirectly, feedback from African Americans who had
15 applied for work there at the City of Warren that had
16 negative reports on how they were treated?
17 A. Yes. I did talk to a number of people who had
18 indicated they had applied, had to apply again, had to
19 apply several times, in fact, never got response
20 letters or interviews, yes.
21 Q. Okay. Have you had an opportunity to inquire into
22 those circumstances, any particular case at all?
23 A. No. Actually, no.
24 Q. Did those sorts of reports, were they numerous or –
25 A. They were intermittent. By intermittent, I mean

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1 diversity training, and that in and of itself, to be
2 done correctly in my opinion, a three to four-hour
3 block by itself.
4 Q. Okay. Had you known of any other training being
5 conducted or provided to the Warren Police Department
6 that dealt with addressing racially discriminatory
7 attitudes and practices?
8 A. No. I requested that information but never received
9 it.
10 Q. So as far as you were concerned, you were not aware of
11 any diversity training or any training that dealt with
12 addressing racially discriminatory attitudes and
13 practices for the Warren Police Department either
14 during '17, 2017, the year you were actually working
15 there as diversity coordinator or in the past?
16 A. No. I'm not familiar with that.
17 Q. And you actually requested information.
18 A. Yes.
19 Q. Had there been training in the past, you wanted to
20 know what that training was. You requested it, and
21 you received none.
22 A. That's correct. I requested it for a 36-month period,
23 going back 36 months.
24 Q. Okay.
25 A. But never received it.

1 occasional.
2 Q. Okay.
3 A. Yeah.
4 Q. Are you familiar with the EEO-4 report, sir?
5 A. Yes.
6 Q. Can you tell us for the record what's that report?
7 A. An EEO-4 report is a biannually required report to the
8 Equal Employment Opportunity Commission which
9 constitutes a breakdown of all municipal employees
10 both by race and gender and income category.
11 Q. Is that a required reporting?
12 A. Yes.
13 Q. By federal law?
14 A. By federal law, yes.
15 Q. And what does this – so the information you just said
16 breaks down employees by race and gender. And does it
17 also break down, provide a breakdown in terms of that
18 race and gender component per department within the
19 city?
20 A. It does group departments, but it also more
21 specifically identifies them by income categories and
22 type of profession. So yes.
23 Q. Did you ever have an opportunity to review any EEO-4
24 reports submitted, prepared by the City of Warren?
25 A. Yes, from the period of 1999 through 2017.

25 (Pages 97 to 100)

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1 Q. Okay. Do you recall, sir, the percentage -- and I
2 know you probably can't recollect the exact numbers.
3 A. Right.
4 Q. But do you have an idea based upon your review of
5 those EEO-4 reports as to the percentage of minorities
6 that were employed by the City of Warren for those
7 periods?
8 A. Right. In no instance did it rise above 7.5 percent.
9 Q. In no instance.
10 A. Right.
11 Q. And you did testify earlier that you're not aware of
12 any African Americans in the police department ever
13 other than DeSheila Howlett.
14 A. That's correct.
15 Q. Did you file any EEO-4 reports for the City of Warren?
16 A. Yes.
17 Q. How many?
18 A. One.
19 Q. One. And that was for --
20 A. 2017.
21 Q. 2017. Do you recall whether or not that number of
22 African Americans being employed by the City of Warren
23 had increased, decreased, or stayed the same on the
24 report that you filed?
25 A. It was roughly about six point -- I want to say

1 I had to stay behind at work so that they
2 could come to my office. I reproduced the witness
3 statement forms. And in the presence of an
4 interpreter that I had secured for them, allowed them
5 to complete the forms, which they did.

6 The following day myself and Mark Simlar,
7 again the acting human resource director, personally
8 walked the forms over and handed them to Commissioner
9 Green.

10 Q. And did Commissioner Green treat those complaints,
11 those forms appropriately?

12 A. He apologized for the incident that occurred. I don't
13 know what happened after that with respect to the
14 outcome of him having received those forms.

15 Q. Okay.

16 A. But I do know that an investigation was conducted, a
17 report was generated which contained inaccuracies, and
18 the matter is now under litigation.

19 Q. Okay. I don't recall your mentioning what happened,
20 the incident that Jere Green apologized for.

21 A. Oh. There had been quite a bit of conversation about
22 the right of those individuals to come to the police
23 station and fill out these statements. And I had
24 conversations directly with Mr. Green, Jere Green,
25 Commissioner Green, and a Sergeant Bradley wherein I

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1 6.8 percent. I recall that number as a percentage.
2 So it pretty much stayed consistent after I want to
3 say 2003 in terms of ratio. You have people leaving,
4 people coming, people being hired, people leaving, et
5 cetera so --

6 Q. Do you ever recall any complaints being filed against
7 the Warren Police Department by any African Americans,
8 whether they were disabled or not?

9 A. Yes.

10 Q. Can you tell us for the record what that was, sir?

11 A. A complaint was filed with me as the Americans with
12 Disability Act coordinator against the Warren Police
13 Department regarding alleged mistreatment of people
14 who were deaf, deaf, blind, or hard of hearing.

15 Q. Okay. Do you recall what became of that complaint?

16 A. A formal complaint was filed with the Justice
17 Department, and an internal investigation was
18 conducted by the City.

19 Q. Okay. And was that complaint and the complainants
20 treated with dignity and respect in your opinion?

21 A. I would say in one instance, no; and that was an
22 instance where two deaf persons were denied the
23 opportunity to receive witness statement forms when
24 they presented themselves to the Warren Police
25 Department to complete those forms.

1 shared with them that they should facilitate the deaf
2 person's ability to complete the forms, just get them
3 in and out, not necessarily debate the content of what
4 they were going to put on the forms.

5 As I understood it, that was what was going
6 to happen. But when they arrived, they were refused
7 the other witness forms to fill out. They contacted
8 me via phone while they were there at the police
9 department, and I instructed them to come over. I
10 made the copy -- they were only given one blank copy.
11 There were three individuals. They were only given
12 one blank copy, and I made two more copies of that.

13 But Mr. Green had, Commissioner Green had
14 initially indicated that he would facilitate that and,
15 in fact, was going to stay until that had happened.
16 But he left. So that when they arrived, they were
17 being serviced so to speak by Sergeant Bradley, who
18 ultimately denied the other two deaf persons the
19 witness state forms, blank witness state forms.

20 Q. I see.

21 A. Statement forms.

22 Q. And did you happen to mention the race of these
23 disabled, deaf --

24 A. They were African American.

25 Q. All of them were African Americans.

26 (Pages 101 to 104)

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1 A. Yes.
2 Q. And I don't recall whether we actually put in the
3 record Mr. Murray, Commissioner Jere Green, is he
4 white?
5 A. Yes, he is.
6 Q. Okay. And Barbara Beyer is white.
7 A. Yes.
8 Q. Okay. And Shawn Johnson is white.
9 A. Yes.
10 Q. And the lieutenant from the fire department was white.
11 A. Yes.
12 Q. We're going to take a break. I think I'm done, but I
13 need to take a break real quickly, please.
14 (Off the record at 12:56 p.m.)
15 MARKED FOR IDENTIFICATION
16 DEPOSITION EXHIBIT 8
17 (General Order No. 03-01)
18 1:24 p.m.
19 (Back on the record at 1:25 p.m.)
20 BY MR. MUNGO:
21 Q. We're back on the record. So Mr. Murray, in
22 Deposition Exhibit Number 4, which is discrimination
23 of sexual harassment dated July 24th, 2017, you have
24 that one before you, sir?
25 A. Yes, I do.

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1 Q. Okay. Sir, I want you to take a look at that
2 document. And in particular I want to refer you to
3 Page 4, Page 4, C subpart 2. Take a look at that
4 paragraph, sir, and tell me if there's anything there
5 that is -- that you're familiar with.
6 A. No. Actually, I'm unfamiliar with the entire
7 document. And I'm surprised to see my name in bold
8 print in C subpart 2.
9 Q. C subpart 2.
10 A. Right. Because I've never seen this document.
11 Q. Okay. This document is dated July 24th, 2017. Among
12 the documents that you said you requested but never
13 received, would this be a document that would be
14 included among the sort of documents that you
15 requested from the City of Warren?
16 A. Yes.
17 Q. Okay. But you never received it.
18 A. That's correct. I never received it.
19 Q. Would you expect to have received it particularly
20 since your name was typed in bold --
21 A. Yes.
22 Q. -- as a person to bring complaints to?
23 A. Yes.
24 Q. Did anyone ever tell you this document was in
25 existence?

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1 A. No.
2 Q. And then I want to refer you to Deposition Exhibit
3 Number 8. It's dated January 10, 2003, which is
4 discrimination of sexual harassment.
5 Oh. By the way, before we delve into
6 Deposition Exhibit Number 8, which is January 10th,
7 2003, Deposition Exhibit Number 4 was -- it shows on
8 the first page at the bottom toward the left that it
9 rescinds the document that was dated -- I guess it
10 would be a similar document that would have been
11 dated -- what would that be, March of 2001?
12 A. That would be January of 2003.
13 Q. January of -- where it says rescinds?
14 A. Yes.
15 Q. Okay.
16 A. Which is actually Exhibit Number 8.
17 Q. Is that the way you would read that?
18 MR. SHARPE: He's referring to this.
19 BY MR. MUNGO:
20 Q. Would that be March 2001? It's hard to tell. It
21 seems based upon the Deposition Exhibit Number --
22 A. Well, maybe the dates don't --
23 Q. It rescinds 87 of 2012, it looks like; right? Or
24 87 -- December of 1987.
25 A. Yes. I think that's the way it works.

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1 MR. ACHO: I'm going to object as to
2 speculation. He doesn't know. We don't know. You
3 don't know.
4 THE WITNESS: Yeah.
5 MR. ACHO: It's completely up to
6 speculation.
7 BY MR. MUNGO:
8 Q. Okay. So what was your answer to that question, sir?
9 A. Well, my answer would be that the year is indicated by
10 the first date and the second numeral is the month.
11 Q. Is the month. Okay.
12 A. This is consistent with military nomenclature in terms
13 of the date.
14 Q. The year is first, then the month.
15 A. Yes.
16 Q. Okay. Which would be consistent because then this one
17 would have replaced 2003 in the month of January,
18 which is Deposition Exhibit Number 8. So Deposition
19 Exhibit Number 4 would have replaced Deposition
20 Exhibit Number 8.
21 So Deposition Exhibit Number 8, which is
22 the January 2003 discrimination of sexual harassment
23 policy for the City of Warren, does not have reference
24 to your name in it; correct?
25 A. That's correct.

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1 Q. Okay. So it would appear, it would appear that there
2 was some changes made to the Deposition Exhibit Number
3 8 as though there were some deficiencies that needed
4 to be corrected that were attempted in Deposition
5 Exhibit Number 4.

6 MR. ACHO: I'm going to object to your
7 editorializing as to, quote, appears that a document
8 was changed. You don't know, and I don't know.
9 You're speculating, mischaracterizing, and
10 editorializing. There's not a question on the table.

11 I ask that you give a question to

12 Mr. Murray as opposed to making your own general
13 statements.

14 BY MR. MUNGO:

15 Q. He has to do that, but focus on what I'm saying. Do
16 you see a difference?

17 A. Yes.

18 Q. And if so, what does it appear that difference was
19 done to accomplish?

20 A. It specifically identifies me as the coordinator. And
21 I think to the extent that I can look at both of
22 these, the language is pretty consistent except for
23 that addition.

24 Q. So if we were to compare Part C in Deposition Exhibit
25 8 to Part C in Deposition Exhibit Number 4, what would

1 shortly. Obviously, Mr. Mungo, we'll do it at a
2 convenient time for you as well.

3 We're not going to have time to set the dep
4 schedules today, but I will follow up with you and
5 Mr. Lazano (ph) in the next 24 to 48 hours. I do have
6 the dates of February 20th, 21st, and 28th set aside
7 for you for the City of Warren employees.

8 MR. MUNGO: Oh, yeah. We need to finalize
9 that.

10 MR. ACHO: We will do that. But for now I
11 just -- I'll tell you on the record we have February
12 20, 21, and 28 set aside for you.

13 MR. MUNGO: Let me call Mr. Lazano in here
14 because --

15 THE WITNESS: I have a surgical procedure
16 for the morning --

17 MR. MUNGO: No, sir.

18 MR. ACHO: These are for different
19 individuals related to the case.

20 THE WITNESS: I thought you were talking
21 about rescheduling.

22 MR. ACHO: No. I'm not even going to
23 attempt to do that. I'll reach out to Mr. Sharpe.

24 MR. SHARPE: Thank you.

25 MR. MUNGO: I'm going to have Mr. Lazano

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1 appear to be the differences there?

2 A. The difference would be that the Equal Employment
3 Opportunity officer is named in 4, is not named in
4 Exhibit 8, C2.

5 Q. Okay. Notwithstanding, you've never seen either one
6 of these documents, Deposition Exhibit Number 4 or 8,
7 even though you requested them; correct?

8 A. That's correct.

9 MR. MUNGO: Okay. All right. I think with
10 that, Mr. Acho --

11 MR. ACHO: All right.

12 MR. MUNGO: I am done, sir.

13 MR. ACHO: I thank you. I spoke to
14 Mr. Murray's attorney, Mr. Sharpe, who is present.
15 And what we are going to do at this time is adjourn
16 the deposition.

17 I'm going to reserve my right to continue
18 our portion of examination of Mr. Murray at a mutually
19 convenient time which will be before the end of the
20 month. We'll do it very soon. We'll do it at
21 Mr. Sharpe's office in the Buhl Building. Because
22 there isn't enough time for us today for me to
23 continue my line of questioning.

24 So with that, I will thank Mr. Murray for
25 his time today. Mr. Sharpe, I'll be in touch with you

1 come in so we can schedule the rest of those. We're
2 off the record.

3 (Off the record at 1:34 p.m.)

4 (Back on the record at 1:35 p.m.)

5 MR. MUNGO: Let's go back on the record.
6 Mr. Acho, I've got a question for you.

7 MR. ACHO: Yes, sir.

8 MR. MUNGO: Acho. I've got a question for
9 you, man.

10 MR. ACHO: All right.

11 MR. MUNGO: Tell me, what is your reason
12 for needing to continue Mr. Murray?

13 MR. ACHO: Counsel, I'm not going to get
14 into that here. We have an agreement with
15 Mr. Murray's attorney. I will reset the deposition
16 with you.

17 I've already explained to you the
18 rationale, and you told me the dep was going to be
19 quick. It was not. I don't have enough time to
20 finish the questioning. So we will continue it on a
21 mutually convenient day very soon.

22 MR. SHARPE: Let me say --

23 MR. MUNGO: We only get seven hours with --

24 MR. SHARPE: This is not -- I did not
25 notice this deposition. Certainly Mr. Acho and I

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1 spoke about him making it convenient for me and my
2 client. I'm fine with that. But I'm not calling the
3 shots though in terms of--

4 MR. ACHO: No, I understand that.

5 MR. SHARPE: Yeah.

6 MR. ACHO: There is a time limit pursuant
7 to the court rule.

8 MR. SHARPE: Sure.

9 MR. ACHO: I understand that. And much of
10 it has been exhausted. But I do have a right to ask
11 some follow-up questions, and we'll do that. We just
12 don't have the time today.

13 MR. SHARPE: Sure.

14 MR. ACHO: So I promise within the next
15 48 hours, I will reach out to Mr. Sharpe and
16 Mr. Mungo, and we will reset a date and time
17 convenient for Mr. Murray. And we plan on wrapping it
18 up in short order. Thank you.

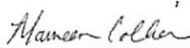
19 MR. MUNGO: Okay.

20 (The deposition was adjourned at 1:36 p.m.
21 Signature of the witness was not requested by
22 counsel for the respective parties hereto.)
23
24
25

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1 CERTIFICATE
2 STATE OF MICHIGAN
3 COUNTY OF MACOMB
4

5 I, MAUREEN COLLIER, a Notary Public in
6 and for the above county and state, do hereby certify
7 that this deposition was taken before me at the time
8 and place hereinbefore set forth; that the witness was
9 by me first duly sworn to testify to the truth; that
10 this is a true, full and correct transcript of my
11 stenographic notes so taken; and that I am not
12 related, nor of counsel to either party, nor
13 interested in the event of this cause.
14
15
16
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19 

20 MAUREEN COLLIER, CSR-7422

21 Notary Public

22 Macomb County, Michigan

23 My commission expires: February 9, 2021
24
25



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